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CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 223

Introduced by Assembly Member Frommer

February 13, 2001

An act to amend Sections 425.10, 425.11, 489.220, 685.030, 720.160, 720.260, 877.6, 1013, 1134, 2017, 2025, 2026, 2033.5, and 2093 of the Code of Civil Procedure, to amend Section 915 of the Evidence Code, to amend Sections 68502.5, 68511.3, 71629, 72055, 77001, 77003, 77009, 77202, 77206, and 77212, and to repeal Section 68113 of, the Government Code, and to amend ~~Sections 1463.1, 4750, 4751, and 4753~~ *Section 1463.1* of the Penal Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 223, as amended, Frommer. Evidence: depositions: forms: discovery.

Existing law sets forth the required contents of a civil complaint or cross-complaint, the right of a defendant to request a statement of the nature and amount of damages sought, and the required amount of an undertaking to obtain a release of an attachment or a protective order, or to protect the rights of a 3rd-party creditor, with regard to a writ of execution on a debtor's property.

This bill would make technical changes in these provisions and increase the required amount of those undertakings, as specified.

Existing law authorizes the clerk of a court to enter in the Register of Actions a writ of execution on a money judgment as wholly satisfied when no more than \$10 interest deficit exists in a limited civil case, as specified.

This bill would extend that authorization to all civil cases involving money judgments.

Existing law provides that a party may obtain discovery by taking an oral deposition in another state of the United States, or in a territory or an insular possession subject to its jurisdiction. The deposition must be conducted under the supervision of a person authorized to administer oaths by the laws of the United States or before a person appointed by the court.

This bill would authorize the clerk of the court to issue a commission authorizing the deposition in another state or place. The commission would be issued to any party in any action pending in its venue without a noticed motion or court order. The commission would contain such terms as are required by the foreign jurisdiction to initiate the process. If a court order is required by the foreign jurisdiction, an order for a commission would be authorized to be obtained by an ex parte application. The bill would also permit a person to take, or attend, a deposition by telephone or other electronic means, would permit a nonparty deponent to appear at his or her deposition by telephone, as specified, and would authorize the use of electronic technology in conducting discovery, as specified.

Existing law provides that certified shorthand reporters have the power to administer oaths or affirmations to those being deposed.

This bill would make that power applicable when the deposition is taken by telephone or other remote electronic means, as specified.

Existing law requires the Judicial Council to develop and approve official form interrogatories and requests for admission of the genuineness of any relevant documents or of the truth of any relevant matters of fact in any civil action in a state court based on personal



injury, property damage, wrongful death, unlawful detainer, breach of contract, family law, or fraud.

This bill would further require the Judicial Council to develop and approve official form interrogatories and requests for admission for use in any other civil action in a state court as the Judicial Council deems appropriate.

Existing law generally provides that attorney work product is not discoverable unless the court determines the denial of discovery will unfairly prejudice the party seeking discovery, as specified. However, existing law also provides that any writing reflecting an attorney's impressions, conclusions, opinions, or legal research or theories is not discoverable under any circumstances. Existing law relating to the assertion of privilege provides that the presiding officer may not require disclosure of information claimed to be privileged in order to rule on the claim. However, if a court is unable to rule on the validity of the assertion of certain specified privileges without requiring disclosure, the court may require the disclosure of the information in chambers out of the presence and hearing of all persons except the person authorized to claim the protection and such other persons as the person authorized to claim the protection is willing to have present.

This bill would specify that a presiding officer may not require disclosure of attorney work product coming within the absolute prohibition in order to rule on a claim of privilege and would provide that other attorney work product may be disclosed pursuant to the above procedure in order to rule on such a claim.

Existing law requires each trial court to report to the Judicial Council on progress towards achieving specified cost reduction goals.

This bill would repeal that requirement.

Existing law specifies the total fee for filing a first paper in a limited civil case. Existing law authorizes the board of supervisors of each county to exclude a specified portion of the total fee relating to dispute resolution.

This bill would revise the total fee for filing a first paper in a limited civil case, as specified. The bill would delete the authority of a board of supervisors to exclude a portion of the total fee and instead permit the Judicial Council to authorize any trial court to exclude that portion of the fee.

Existing law provides that the Judicial Council shall establish by rule the Trial Court Budget Commission and may delegate certain budgetary activities and recommending authority to the Trial Court Budget



Commission. Existing law also provides specific standards for the allocation of moneys to individual courts proposed by the commission for approval by the Judicial Council. Existing law requires that each trial court send a copy of its budget request to the board of supervisors, and provides that the board of supervisors may comment on the budget to the Trial Court Budget Commission.

This bill would remove the statutory authorization for the Trial Court Budget Commission, make corresponding changes, and delete the provision requiring the sending of a copy of a trial court budget request to the board of supervisors. This bill would also provide that the Judicial Council may seek input regarding budgetary activities as it deems appropriate, and expressly permit the consideration of other issues when making allocation determinations. This bill would repeal the statute requiring that each trial court send a copy of its budget request to the board of supervisors, and authorizing the board of supervisors to comment on the budget to the Trial Court Budget Commission.

Existing law provides generally for the state funding of trial courts. These provisions require the establishment of a decentralized system of trial court management, define court operations for funding purposes, require the board of supervisors in each county to establish a Trial Court Operations Fund in the county treasury, provide for an annual appropriation to the Judicial Council for general operations of trial courts, require the Judicial Council to adopt appropriate rules for budget submission and management and the reporting of revenues and expenditures by each trial court, and require the continuation by counties of certain services to the courts.

This bill would revise the requirements for decentralized trial court management systems, revise the procedures for the audit and review of a Trial Court Operations Fund, revise the budget request procedures for the annual appropriation for trial court funding, and make corresponding changes in the definition of trial court operations.

~~Existing law provides for the payment to the counties by the state for the costs, including court costs, for trials involving inmates in state penal institutions.~~

~~This bill would amend the provisions involving inmate offenses by providing that the superior courts may be compensated directly by the state for court-related costs.~~

Existing law provides that, with the prior approval of the county auditor, a municipal court may deposit into a bank account moneys that are deposited with the court as bail.



This bill would extend this provision to all trial courts, require prior approval of the administrative director of the courts rather than the county auditor, and provide for regulation of these accounts by the Judicial Council, as specified.

This bill would authorize the Judicial Council to restrict or prohibit a trial court from transferring money from one program to another, to audit the trial courts, to establish and control separate funds, and to regulate, control, and manage all moneys collected by the trial courts.

Existing law governs trial court employee benefits.

This bill would provide that, if a county administers benefits to trial court employees, the employee is eligible for benefits as regulations specify and the employee has the right to receive, and is similarly subject to the modifications of, the same level of benefits as county employees in similar classifications.

Existing law requires the Judicial Council to prepare a form, containing specific required information disclosures, by which litigants to an action may claim financial hardship and be excused from paying certain fees.

This bill would remove from the form the disclosure of the litigant's date of birth.

This bill would also require that any specified costs, charged to the courts by the counties, be expressly stated and contain only items of court operations.

This bill would require courts and counties to establish procedures to share budgetary information, as specified.

This bill would also require the Judicial Council to provide to the Legislature, on December 1, 2001, and yearly thereafter, court budget expenditure data, as specified.

Existing law provides for a confession of judgment without an action, upon the payment of a specified fee and the filing of specified documents, that becomes the judgment roll.

This bill would increase the filing fee for a confession of judgment in limited civil cases, and revise the list of required documents that become the judgment roll.

Existing law provides that a settling party in certain actions may give notice of settlement to all parties and the court and that, within 25 days of the mailing of that notice, a nonsettling party may file a notice of motion to contest the good faith of the settlement.



This bill would shorten the time limitation for the nonsettling party to file a motion contesting the good faith of the settlement to 20 days, if the original notice of settlement was personally served.

Existing law provides that service by mail is completed at the time of deposit and that the period of notice and any required response to the service, or any right or duty based thereon, is extended 5 days if mailed to a destination within California, 10 days if the destination is within the United States but outside California, and 20 days if the destination is outside the United States.

This bill would specify that the applicable days for this period of notice are calendar days, and that these time extensions shall be determined based upon either the destination or the place of mailing, or both, as specified.

This bill would incorporate additional changes in Section 2025 of the Code of Civil Procedure, proposed by SB 805, to be operative only if SB 805 and this bill are both chaptered and become effective on or before January 1, 2002, and this bill is chaptered last.

This bill would incorporate additional changes in Section 77003 of the Government Code, proposed by AB 1700, to be operative only if AB 1700 and this bill are both chaptered and become effective on or before January 1, 2002, and this bill is chaptered last.

This bill would incorporate additional changes in Section 77009 of the Government Code, proposed by SB 1191, to be operative only if SB 1191 and this bill are both chaptered and become effective on or before January 1, 2002, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 425.10 of the Code of Civil Procedure
- 2 is amended to read:
- 3 425.10. (a) A complaint or cross-complaint shall contain
- 4 both of the following:
- 5 (1) A statement of the facts constituting the cause of action, in
- 6 ordinary and concise language.
- 7 (2) A demand for judgment for the relief to which the pleader
- 8 claims to be entitled. If the recovery of money or damages is
- 9 demanded, the amount demanded shall be stated.



1 (b) Notwithstanding subdivision (a), where an action is
2 brought to recover actual or punitive damages for personal injury
3 or wrongful death, the amount demanded shall not be stated, but
4 the complaint shall comply with Section 422.30 and, in a limited
5 civil case, with Section 72055 of the Government Code.

6 SEC. 2. Section 425.11 of the Code of Civil Procedure is
7 amended to read:

8 425.11. (a) As used in this section:

9 (1) "Complaint" includes a cross-complaint.

10 (2) "Plaintiff" includes a cross-complainant.

11 (3) "Defendant" includes a cross-defendant.

12 (b) When a complaint is filed in an action to recover damages
13 for personal injury or wrongful death, the defendant may at any
14 time request a statement setting forth the nature and amount of
15 damages being sought. The request shall be served upon the
16 plaintiff, who shall serve a responsive statement as to the damages
17 within 15 days. In the event that a response is not served, the
18 defendant, on notice to the plaintiff, may petition the court in
19 which the action is pending to order the plaintiff to serve a
20 responsive statement.

21 (c) If no request is made for the statement referred to in
22 subdivision (a), the plaintiff shall serve the statement on the
23 defendant before a default may be taken.

24 (d) The statement referred to in subdivision (b) shall be served
25 in the following manner:

26 (1) If a party has not appeared in the action, the statement shall
27 be served in the same manner as a summons.

28 (2) If a party has appeared in the action, the statement shall be
29 served upon the party's attorney, or upon the party if the party has
30 appeared without an attorney, in the manner provided for service
31 of a summons or in the manner provided by Chapter 5
32 (commencing with Section 1010) of Title 14 of Part 2.

33 (e) The statement referred to in subdivision (b) may be
34 combined with the statement described in Section 425.115.

35 SEC. 3. Section 489.220 of the Code of Civil Procedure is
36 amended to read:

37 489.220. (a) Except as provided in subdivision (b), the
38 amount of an undertaking filed pursuant to this article shall be ten
39 thousand dollars (\$10,000).



1 (b) If, upon objection to the undertaking, the court determines
2 that the probable recovery for wrongful attachment exceeds the
3 amount of the undertaking, it shall order the amount of the
4 undertaking increased to the amount it determines to be the
5 probable recovery for wrongful attachment if it is ultimately
6 determined that the attachment was wrongful.

7 SEC. 4. Section 685.030 of the Code of Civil Procedure is
8 amended to read:

9 685.030. (a) If a money judgment is satisfied in full pursuant
10 to a writ under this title, interest ceases to accrue on the judgment:

11 (1) If the proceeds of collection are paid in a lump sum, on the
12 date of levy.

13 (2) If the money judgment is satisfied pursuant to an earnings
14 withholding order, on the date and in the manner provided in
15 Section 706.024 or Section 706.028.

16 (3) In any other case, on the date the proceeds of sale or
17 collection are actually received by the levying officer.

18 (b) If a money judgment is satisfied in full other than pursuant
19 to a writ under this title, interest ceases to accrue on the date the
20 judgment is satisfied in full.

21 (c) If a money judgment is partially satisfied pursuant to a writ
22 under this title or is otherwise partially satisfied, interest ceases to
23 accrue as to the part satisfied on the date the part is satisfied.

24 (d) For the purposes of subdivisions (b) and (c), the date a
25 money judgment is satisfied in full or in part is the earliest of the
26 following times:

27 (1) The date satisfaction is actually received by the judgment
28 creditor.

29 (2) The date satisfaction is tendered to the judgment creditor or
30 deposited in court for the judgment creditor.

31 (3) The date of any other performance that has the effect of
32 satisfaction.

33 (e) The clerk of a court may enter in the Register of Actions a
34 writ of execution on a money judgment as returned wholly
35 satisfied when the judgment amount, as specified on the writ, is
36 fully collected and only an interest deficit of no more than ten
37 dollars (\$10) exists, due to automation of the continual daily
38 interest accrual calculation.

39 SEC. 5. Section 720.160 of the Code of Civil Procedure is
40 amended to read:



1 720.160. (a) If the creditor files with the levying officer an
2 undertaking that satisfies the requirements of this section within
3 the time allowed under subdivision (b) of Section 720.140:

4 (1) The levying officer shall execute the writ in the manner
5 provided by law unless the third person files an undertaking to
6 release the property pursuant to Chapter 6 (commencing with
7 Section 720.610).

8 (2) After sale, payment, or delivery of the property pursuant to
9 the writ, the property is free of all claims of the third person for
10 which the creditor has given the undertaking.

11 (b) Subject to Sections 720.770 and 996.010, unless the
12 creditor elects to file an undertaking in a larger amount, the amount
13 of the undertaking filed by the creditor under this section shall be
14 in the amount of ten thousand dollars (\$10,000), or twice the
15 amount of the execution lien as of the date of levy or other
16 enforcement lien as of the date it was created, whichever is the
17 lesser amount.

18 (c) An undertaking given by the creditor under this chapter
19 shall:

20 (1) Be made in favor of the third person.

21 (2) Indemnify the third person against any loss, liability,
22 damages, costs, and attorney's fees, incurred by reason of the
23 enforcement proceedings.

24 (3) Be conditioned on a final judgment that the third person
25 owns or has the right of possession of the property.

26 (d) If the creditor is a public entity exempt from giving an
27 undertaking, the public entity shall, in lieu of filing the
28 undertaking, file with the levying officer a notice stating that the
29 public entity opposes the claim of the third person. When so filed,
30 the notice is deemed to satisfy the requirement of this section that
31 an undertaking be filed.

32 SEC. 6. Section 720.260 of the Code of Civil Procedure is
33 amended to read:

34 720.260. (a) If the creditor within the time allowed under
35 subdivision (b) of Section 720.240 either files with the levying
36 officer an undertaking that satisfies the requirements of this
37 section and a statement that satisfies the requirements of Section
38 720.280 or makes a deposit with the levying officer of the amount
39 claimed under Section 720.230:



1 (1) The levying officer shall execute the writ in the manner
2 provided by law unless, in a case where the creditor has filed an
3 undertaking, the secured party or lienholder files an undertaking
4 to release the property pursuant to Chapter 6 (commencing with
5 Section 720.610).

6 (2) After sale, payment, or delivery of the property pursuant to
7 the writ, the property is free of all claims or liens of the secured
8 party or lienholder for which the creditor has given the
9 undertaking or made the deposit.

10 (b) Subject to Sections 720.770 and 996.010, unless the
11 creditor elects to file an undertaking in a larger amount, the amount
12 of the undertaking filed by the creditor under this section shall be
13 in the amount of ten thousand dollars (\$10,000) or twice the
14 amount of the execution lien as of the date of levy or other
15 enforcement lien as of the date it was created, whichever is the
16 lesser amount.

17 (c) An undertaking given by the creditor under this chapter
18 shall:

19 (1) Be made in favor of the secured party or lienholder.

20 (2) Indemnify the secured party or lienholder against any loss,
21 liability, damages, costs, and attorney's fees, incurred by reason of
22 the enforcement proceedings.

23 (3) Be conditioned on a final judgment that the security interest
24 or lien of the third person is entitled to priority over the creditor's
25 lien.

26 (d) If the creditor is a public entity exempt from giving an
27 undertaking, the public entity shall, in lieu of filing the
28 undertaking, file with the levying officer a notice stating that the
29 public entity opposes the claim of the third person. When so filed,
30 the notice is deemed to satisfy the requirement of this section that
31 an undertaking be filed.

32 SEC. 7. Section 877.6 of the Code of Civil Procedure is
33 amended to read:

34 877.6. (a) (1) Any party to an action in which it is alleged
35 that two or more parties are joint tortfeasors or co-obligors on a
36 contract debt shall be entitled to a hearing on the issue of the good
37 faith of a settlement entered into by the plaintiff or other claimant
38 and one or more alleged tortfeasors or co-obligors, upon giving
39 notice in the manner provided in subdivision (b) of Section 1005.
40 Upon a showing of good cause, the court may shorten the time for



1 giving the required notice to permit the determination of the issue
2 to be made before the commencement of the trial of the action, or
3 before the verdict or judgment if settlement is made after the trial
4 has commenced.

5 (2) In the alternative, a settling party may give notice of
6 settlement to all parties and to the court, together with an
7 application for determination of good faith settlement and a
8 proposed order. The application shall indicate the settling parties,
9 and the basis, terms, and amount of the settlement. The notice,
10 application, and proposed order shall be given by certified mail,
11 return receipt requested. Proof of service shall be filed with the
12 court. Within 25 days of the mailing of the notice, application, and
13 proposed order, or within 20 days of personal service, a nonsettling
14 party may file a notice of motion to contest the good faith of the
15 settlement. If none of the nonsettling parties files a motion within
16 25 days of mailing of the notice, application, and proposed order,
17 or within 20 days of personal service, the court may approve the
18 settlement. The notice by a nonsettling party shall be given in the
19 manner provided in subdivision (b) of Section 1005. However, this
20 paragraph shall not apply to settlements in which a confidentiality
21 agreement has been entered into regarding the case or the terms of
22 the settlement.

23 (b) The issue of the good faith of a settlement may be
24 determined by the court on the basis of affidavits served with the
25 notice of hearing, and any counteraffidavits filed in response, or
26 the court may, in its discretion, receive other evidence at the
27 hearing.

28 (c) A determination by the court that the settlement was made
29 in good faith shall bar any other joint tortfeasor or co-obligor from
30 any further claims against the settling tortfeasor or co-obligor for
31 equitable comparative contribution, or partial or comparative
32 indemnity, based on comparative negligence or comparative fault.

33 (d) The party asserting the lack of good faith shall have the
34 burden of proof on that issue.

35 (e) When a determination of the good faith or lack of good faith
36 of a settlement is made, any party aggrieved by the determination
37 may petition the proper court to review the determination by writ
38 of mandate. The petition for writ of mandate shall be filed within
39 20 days after service of written notice of the determination, or



1 within any additional time not exceeding 20 days as the trial court
2 may allow.

3 (1) The court shall, within 30 days of the receipt of all materials
4 to be filed by the parties, determine whether or not the court will
5 hear the writ and notify the parties of its determination.

6 (2) If the court grants a hearing on the writ, the hearing shall be
7 given special precedence over all other civil matters on the
8 calendar of the court except those matters to which equal or greater
9 precedence on the calendar is granted by law.

10 (3) The running of any period of time after which an action
11 would be subject to dismissal pursuant to the applicable provisions
12 of Chapter 1.5 (commencing with Section 583.110) of Title 8 of
13 Part 2 shall be tolled during the period of review of a determination
14 pursuant to this subdivision.

15 SEC. 8. Section 1013 of the Code of Civil Procedure is
16 amended to read:

17 1013. (a) In case of service by mail, the notice or other paper
18 shall be deposited in a post office, mailbox, subpost office,
19 substation, or mail chute, or other like facility regularly
20 maintained by the United States Postal Service, in a sealed
21 envelope, with postage paid, addressed to the person on whom it
22 is to be served, at the office address as last given by that person on
23 any document filed in the cause and served on the party making
24 service by mail; otherwise at that party's place of residence. The
25 service is complete at the time of the deposit, but any period of
26 notice and any right or duty to do any act or make any response
27 within any period or on a date certain after the service of the
28 document, which time period or date is prescribed by statute or
29 rule of court, shall be extended five calendar days, upon service by
30 mail, if the place of address and the place of mailing is within the
31 State of California, 10 calendar days if either the place of mailing
32 or the place of address is outside the State of California but within
33 the United States, and 20 calendar days if either the place of
34 mailing or the place of address is outside the United States, but the
35 extension shall not apply to extend the time for filing notice of
36 intention to move for new trial, notice of intention to move to
37 vacate judgment pursuant to Section 663a, or notice of appeal.
38 This extension applies in the absence of a specific exception
39 provided for by this section or other statute or rule of court.



1 (b) The copy of the notice or other paper served by mail
2 pursuant to this chapter shall bear a notation of the date and place
3 of mailing or be accompanied by an unsigned copy of the affidavit
4 or certificate of mailing.

5 (c) In case of service by Express Mail, the notice or other paper
6 must be deposited in a post office, mailbox, subpost office,
7 substation, or mail chute, or other like facility regularly
8 maintained by the United States Postal Service for receipt of
9 Express Mail, in a sealed envelope, with Express Mail postage
10 paid, addressed to the person on whom it is to be served, at the
11 office address as last given by that person on any document filed
12 in the cause and served on the party making service by Express
13 Mail; otherwise at that party's place of residence. In case of service
14 by another method of delivery providing for overnight delivery,
15 the notice or other paper must be deposited in a box or other facility
16 regularly maintained by the express service carrier, or delivered to
17 an authorized courier or driver authorized by the express service
18 carrier to receive documents, in an envelope or package designated
19 by the express service carrier with delivery fees paid or provided
20 for, addressed to the person on whom it is to be served, at the office
21 address as last given by that person on any document filed in the
22 cause and served on the party making service; otherwise at that
23 party's place of residence. The service is complete at the time of
24 the deposit, but any period of notice and any right or duty to do any
25 act or make any response within any period or on a date certain
26 after the service of the document served by Express Mail or other
27 method of delivery providing for overnight delivery shall be
28 extended by two court days, but the extension shall not apply to
29 extend the time for filing notice of intention to move for new trial,
30 notice of intention to move to vacate judgment pursuant to Section
31 663a, or notice of appeal. This extension applies in the absence of
32 a specific exception provided for by this section or other statute or
33 rule of court.

34 (d) The copy of the notice or other paper served by Express
35 Mail or another means of delivery providing for overnight delivery
36 pursuant to this chapter shall bear a notation of the date and place
37 of deposit or be accompanied by an unsigned copy of the affidavit
38 or certificate of deposit.

39 (e) Service by facsimile transmission shall be permitted only
40 where the parties agree and a written confirmation of that



1 agreement is made. The Judicial Council may adopt rules
2 implementing the service of documents by facsimile transmission
3 and may provide a form for the confirmation of the agreement
4 required by this subdivision. In case of service by facsimile
5 transmission, the notice or other paper must be transmitted to a
6 facsimile machine maintained by the person on whom it is served
7 at the facsimile machine telephone number as last given by that
8 person on any document which he or she has filed in the cause and
9 served on the party making the service. The service is complete at
10 the time of transmission, but any period of notice and any right or
11 duty to do any act or make any response within any period or on
12 a date certain after the service of the document, which time period
13 or date is prescribed by statute or rule of court, shall be extended,
14 after service by facsimile transmission, by two court days, but the
15 extension shall not apply to extend the time for filing notice of
16 intention to move for new trial, notice of intention to move to
17 vacate judgment pursuant to Section 663a, or notice of appeal.
18 This extension applies in the absence of a specific exception
19 provided for by this section or other statute or rule of court.

20 (f) The copy of the notice or other paper served by facsimile
21 transmission pursuant to this chapter shall bear a notation of the
22 date and place of transmission and the facsimile telephone number
23 to which transmitted or be accompanied by an unsigned copy of
24 the affidavit or certificate of transmission which shall contain the
25 facsimile telephone number to which the notice or other paper was
26 transmitted.

27 (g) Subdivisions (b), (d), and (f) are directory.

28 SEC. 9. Section 1134 of the Code of Civil Procedure is
29 amended to read:

30 1134. (a) The statement required by Section 1133 shall be
31 filed with the clerk of the court in which the judgment is to be
32 entered, who must endorse upon it, and enter a judgment of the
33 court for the amount confessed with the costs provided in
34 subdivision (b).

35 (b) At the time of filing, the plaintiff shall pay as court costs that
36 shall become a part of the judgment a fee of fifteen dollars (\$15).
37 No fee shall be collected from the defendant. No fee shall be paid
38 by the clerk of the court in which a confession of judgment is filed
39 for the law library fund nor for services of any court reporter.



1 (c) The statement and affidavit, with the judgment endorsed
2 thereon, together with the certificate filed pursuant to Section
3 1132, becomes the judgment roll.

4 SEC. 9.4. Section 2017 of the Code of Civil Procedure is
5 amended to read:

6 2017. (a) Unless otherwise limited by order of the court in
7 accordance with this article, any party may obtain discovery
8 regarding any matter, not privileged, that is relevant to the subject
9 matter involved in the pending action or to the determination of
10 any motion made in that action, if the matter either is itself
11 admissible in evidence or appears reasonably calculated to lead to
12 the discovery of admissible evidence. Discovery may relate to the
13 claim or defense of the party seeking discovery or of any other
14 party to the action. Discovery may be obtained of the identity and
15 location of persons having knowledge of any discoverable matter,
16 as well as of the existence, description, nature, custody, condition,
17 and location of any document, tangible thing, or land or other
18 property.

19 (b) A party may obtain discovery of the existence and contents
20 of any agreement under which any insurance carrier may be liable
21 to satisfy in whole or in part a judgment that may be entered in the
22 action or to indemnify or reimburse for payments made to satisfy
23 the judgment. This discovery may include the identity of the
24 carrier and the nature and limits of the coverage. A party may also
25 obtain discovery as to whether that insurance carrier is disputing
26 the agreement's coverage of the claim involved in the action, but
27 not as to the nature and substance of that dispute. Information
28 concerning the insurance agreement is not by reason of disclosure
29 admissible in evidence at trial.

30 (c) The court shall limit the scope of discovery if it determines
31 that the burden, expense, or intrusiveness of that discovery clearly
32 outweighs the likelihood that the information sought will lead to
33 the discovery of admissible evidence. The court may make this
34 determination pursuant to a motion for protective order by a party
35 or other affected person. This motion shall be accompanied by a
36 declaration stating facts showing a good faith attempt at an
37 informal resolution of each issue presented by the motion.

38 The court shall impose a monetary sanction under Section 2023
39 against any party, person, or attorney who unsuccessfully makes
40 or opposes a motion for a protective order, unless it finds that the



1 one subject to the sanction acted with substantial justification or
2 that other circumstances make the imposition of the sanction
3 unjust.

4 (d) In any civil action alleging conduct that constitutes sexual
5 harassment, sexual assault, or sexual battery, any party seeking
6 discovery concerning the plaintiff's sexual conduct with
7 individuals other than the alleged perpetrator is required to
8 establish specific facts showing good cause for that discovery, and
9 that the matter sought to be discovered is relevant to the subject
10 matter of the action and reasonably calculated to lead to the
11 discovery of admissible evidence. This showing shall be made by
12 noticed motion and shall not be made or considered by the court
13 at an ex parte hearing. This motion shall be accompanied by a
14 declaration stating facts showing a good faith attempt at an
15 informal resolution of each issue presented by the motion.

16 The court shall impose a monetary sanction under Section 2023
17 against any party, person, or attorney who unsuccessfully makes
18 or opposes a motion for discovery, unless it finds that the one
19 subject to the sanction acted with substantial justification or that
20 other circumstances make the imposition of the sanction unjust.

21 (e) (1) Pursuant to noticed motion, a court may enter orders for
22 the use of technology in conducting discovery in cases designated
23 as complex pursuant to Section 19 of the Judicial Administration
24 Standards, cases ordered to be coordinated pursuant to Chapter 3
25 (commencing with Section 404) of Title 4 of Part 2, or exceptional
26 cases exempt from case disposition time goals pursuant to Article
27 5 (commencing with Section 68600) of Chapter 2 of Title 8 of the
28 Government Code, or cases assigned to Plan 3 pursuant to
29 paragraph (3) of subdivision (b) of Section 2105 of the California
30 Rules of Court. In other cases, the parties may stipulate to the entry
31 of orders for the use of technology in conducting discovery.

32 (2) An order authorizing that discovery may be made only upon
33 the express findings of the court or stipulation of the parties that
34 the procedures adopted in the order meet all of the following
35 criteria:

36 (A) They promote cost-effective and efficient discovery or
37 motions relating thereto.

38 (B) They do not impose or require undue expenditures of time
39 or money.



1 (C) They do not create an undue economic burden or hardship
2 on any person.

3 (D) They promote open competition among vendors and
4 providers of services in order to facilitate the highest quality
5 service at the lowest reasonable cost to the litigants.

6 (E) They do not require parties or counsel to purchase
7 exceptional or unnecessary services, hardware, or software.

8 (3) Pursuant to these orders, discovery may be conducted and
9 maintained in electronic media and by electronic communication.
10 The court may enter orders prescribing procedures relating to the
11 use of electronic technology in conducting discovery, including
12 orders for the service of requests for discovery and responses,
13 service and presentation of motions, production, storage, and
14 access to information in electronic form, and the conduct of
15 discovery in electronic media. The Judicial Council may
16 promulgate rules, standards, and guidelines relating to electronic
17 discovery and the use of such discovery data and documents in
18 court proceedings.

19 (4) Nothing in this subdivision shall diminish the rights and
20 duties of the parties regarding discovery, privileges, procedural
21 rights, or substantive law.

22 (5) If a service provider is to be used and compensated by the
23 parties, the court shall appoint the person or organization agreed
24 upon by the parties and approve the contract agreed upon by the
25 parties and the service provider. If the parties do not agree on the
26 selection, each party shall submit to the court up to three nominees
27 for appointment together with a contract acceptable to the nominee
28 and the court shall appoint a service provider from among the
29 nominees. The court may condition this appointment on the
30 acceptance of modifications in the terms of the contract. If no
31 nominations are received from any of the parties, the court shall
32 appoint one or more service providers. Pursuant to noticed motion
33 at any time and upon a showing of good cause, the court may order
34 the removal of the service provider or vacate any agreement
35 between the parties and the service provider, or both, effective as
36 of the date of the order. The continued service of the service
37 provider shall be subject to review periodically, as agreed by the
38 parties and the service provider, or annually if they do not agree.
39 Any disputes involving the contract or the duties, rights, and



1 obligations of the parties or service providers may be determined
2 on noticed motion in the action.

3 (6) Subject to these findings and the purpose of permitting and
4 encouraging cost-effective and efficient discovery, “technology,”
5 as used in this section, includes, but is not limited to, telephone,
6 e-mail, CD-ROM, Internet web sites, electronic documents,
7 electronic document depositories, Internet depositions and
8 storage, videoconferencing, and other electronic technology that
9 may be used to improve communication and the discovery
10 process.

11 (7) Nothing in this subdivision shall be construed to modify the
12 requirement for use of a stenographic court reporter as provided
13 in paragraph (1) of subdivision (l) of Section 2025. The rules,
14 standards, and guidelines adopted pursuant to this subdivision
15 shall be consistent with the requirement of paragraph (1) of
16 subdivision (l) of Section 2025 that deposition testimony be taken
17 stenographically unless the parties agree or the court orders
18 otherwise.

19 (8) Nothing in this subdivision shall be construed to modify or
20 affect in any way the process used for the selection of a
21 stenographic court reporter.

22 SEC. 9.6. Section 2025 of the Code of Civil Procedure is
23 amended to read:

24 2025. (a) Any party may obtain discovery within the scope
25 delimited by Section 2017, and subject to the restrictions set forth
26 in Section 2019, by taking in California the oral deposition of any
27 person, including any party to the action. The person deposed may
28 be a natural person, an organization such as a public or private
29 corporation, a partnership, an association, or a governmental
30 agency.

31 (b) Subject to subdivisions (f) and (t), an oral deposition may
32 be taken as follows:

33 (1) The defendant may serve a deposition notice without leave
34 of court at any time after that defendant has been served or has
35 appeared in the action, whichever occurs first.

36 (2) The plaintiff may serve a deposition notice without leave of
37 court on any date that is 20 days after the service of the summons
38 on, or appearance by, any defendant. However, on motion with or
39 without notice, the court, for good cause shown, may grant to a
40 plaintiff leave to serve a deposition notice on an earlier date.



1 (c) A party desiring to take the oral deposition of any person
2 shall give notice in writing in the manner set forth in subdivision
3 (d). However, where under subdivision (d) of Section 2020 only
4 the production by a nonparty of business records for copying is
5 desired, a copy of the deposition subpoena shall serve as the notice
6 of deposition. The notice of deposition shall be given to every
7 other party who has appeared in the action. The deposition notice,
8 or the accompanying proof of service, shall list all the parties or
9 attorneys for parties on whom it is served.

10 Where, as defined in subdivision (a) of Section 1985.3, the party
11 giving notice of the deposition is a subpoenaing party, and the
12 deponent is a witness commanded by a deposition subpoena to
13 produce personal records of a consumer, the subpoenaing party
14 shall serve on that consumer (1) a notice of the deposition, (2) the
15 notice of privacy rights specified in subdivision (e) of Section
16 1985.3 and in Section 1985.6, and (3) a copy of the deposition
17 subpoena.

18 (d) The deposition notice shall state all of the following:

19 (1) The address where the deposition will be taken.

20 (2) The date of the deposition, selected under subdivision (f),
21 and the time it will commence.

22 (3) The name of each deponent, and the address and telephone
23 number, if known, of any deponent who is not a party to the action.
24 If the name of the deponent is not known, the deposition notice
25 shall set forth instead a general description sufficient to identify
26 the person or particular class to which the person belongs.

27 (4) The specification with reasonable particularity of any
28 materials or category of materials to be produced by the deponent.

29 (5) Any intention to record the testimony by audiotape or
30 videotape, in addition to recording the testimony by the
31 stenographic method as required by paragraph (1) of subdivision
32 (l) and any intention to record the testimony by stenographic
33 method, through the instant visual display of the testimony. In the
34 latter event, a copy of the deposition notice shall also be given to
35 the deposition officer. Any offer to provide the instant visual
36 display of the testimony or to provide rough draft transcripts to any
37 party which is accepted prior to, or offered at, the deposition shall
38 also be made by the deposition officer at the deposition to all
39 parties in attendance.

1 (6) Any intention to reserve the right to use at trial a videotape
2 deposition of a treating or consulting physician or of any expert
3 witness under paragraph (4) of subdivision (u). In this event, the
4 operator of the videotape camera shall be a person who is
5 authorized to administer an oath, and shall not be financially
6 interested in the action or be a relative or employee of any attorney
7 of any of the parties.

8 If the deponent named is not a natural person, the deposition
9 notice shall describe with reasonable particularity the matters on
10 which examination is requested. In that event, the deponent shall
11 designate and produce at the deposition those of its officers,
12 directors, managing agents, employees, or agents who are most
13 qualified to testify on its behalf as to those matters to the extent of
14 any information known or reasonably available to the deponent.
15 A deposition subpoena shall advise a nonparty deponent of its duty
16 to make this designation, and shall describe with reasonable
17 particularity the matters on which examination is requested.

18 If the attendance of the deponent is to be compelled by service
19 of a deposition subpoena under Section 2020, an identical copy of
20 that subpoena shall be served with the deposition notice.

21 (e) (1) The deposition of a natural person, whether or not a
22 party to the action, shall be taken at a place that is, at the option of
23 the party giving notice of the deposition, either within 75 miles of
24 the deponent's residence, or within the county where the action is
25 pending and within 150 miles of the deponent's residence, unless
26 the court orders otherwise under paragraph (3).

27 (2) The deposition of an organization that is a party to the action
28 shall be taken at a place that is, at the option of the party giving
29 notice of the deposition, either within 75 miles of the
30 organization's principal executive or business office in California,
31 or within the county where the action is pending and within 150
32 miles of that office. The deposition of any other organization shall
33 be taken within 75 miles of the organization's principal executive
34 or business office in California, unless the organization consents
35 to a more distant place. If the organization has not designated a
36 principal executive or business office in California, the deposition
37 shall be taken at a place that is, at the option of the party giving
38 notice of the deposition, either within the county where the action
39 is pending, or within 75 miles of any executive or business office
40 in California of the organization.



1 (3) A party desiring to take the deposition of a natural person
2 who is a party to the action or an officer, director, managing agent,
3 or employee of a party may make a motion for an order that the
4 deponent attend for deposition at a place that is more distant than
5 that permitted under paragraph (1). This motion shall be
6 accompanied by a declaration stating facts showing a reasonable
7 and good faith attempt at an informal resolution of any issue
8 presented by the motion.

9 In exercising its discretion to grant or deny this motion, the court
10 shall take into consideration any factor tending to show whether
11 the interests of justice will be served by requiring the deponent's
12 attendance at that more distant place, including, but not limited to,
13 the following:

14 (A) Whether the moving party selected the forum.

15 (B) Whether the deponent will be present to testify at the trial
16 of the action.

17 (C) The convenience of the deponent.

18 (D) The feasibility of conducting the deposition by written
19 questions under Section 2028, or of using a discovery method
20 other than a deposition.

21 (E) The number of depositions sought to be taken at a place
22 more distant than that permitted under paragraph (1).

23 (F) The expense to the parties of requiring the deposition to be
24 taken within the distance permitted under paragraph (1).

25 (G) The whereabouts of the deponent at the time for which the
26 deposition is scheduled.

27 The order may be conditioned on the advancement by the
28 moving party of the reasonable expenses and costs to the deponent
29 for travel to the place of deposition.

30 The court shall impose a monetary sanction under Section 2023
31 against any party, person, or attorney who unsuccessfully makes
32 or opposes a motion to increase travel limits for party deponent,
33 unless it finds that the one subject to the sanction acted with
34 substantial justification or that other circumstances make the
35 imposition of the sanction unjust.

36 (f) An oral deposition shall be scheduled for a date at least 10
37 days after service of the deposition notice. If, as defined in
38 subdivision (a) of Section 1985.3, the party giving notice of the
39 deposition is a subpoenaing party, and the deponent is a witness
40 commanded by a deposition subpoena to produce personal records



1 of a consumer, the deposition shall be scheduled for a date at least
2 20 days after issuance of that subpoena. However, in unlawful
3 detainer actions, an oral deposition shall be scheduled for a date at
4 least five days after service of the deposition notice, but not later
5 than five days before trial.

6 On motion or ex parte application of any party or deponent, for
7 good cause shown, the court may shorten or extend the time for
8 scheduling a deposition, or may stay its taking until the
9 determination of a motion for a protective order under subdivision
10 (i).

11 (g) Any party served with a deposition notice that does not
12 comply with subdivisions (b) to (f), inclusive, waives any error or
13 irregularity unless that party promptly serves a written objection
14 specifying that error or irregularity at least three calendar days
15 prior to the date for which the deposition is scheduled, on the party
16 seeking to take the deposition and any other attorney or party on
17 whom the deposition notice was served. If an objection is made
18 three calendar days before the deposition date, the objecting party
19 shall make personal service of that objection pursuant to Section
20 1011 on the party who gave notice of the deposition. Any
21 deposition taken after the service of a written objection shall not
22 be used against the objecting party under subdivision (u) if the
23 party did not attend the deposition and if the court determines that
24 the objection was a valid one.

25 In addition to serving this written objection, a party may also
26 move for an order staying the taking of the deposition and
27 quashing the deposition notice. This motion shall be accompanied
28 by a declaration stating facts showing a reasonable and good faith
29 attempt at an informal resolution of any issue presented by the
30 motion. The taking of the deposition is stayed pending the
31 determination of this motion.

32 The court shall impose a monetary sanction under Section 2023
33 against any party, person, or attorney who unsuccessfully makes
34 or opposes a motion to quash a deposition notice, unless it finds
35 that the one subject to the sanction acted with substantial
36 justification or that other circumstances make the imposition of the
37 sanction unjust.

38 (h) (1) The service of a deposition notice under subdivision (c)
39 is effective to require any deponent who is a party to the action or
40 an officer, director, managing agent, or employee of a party to



1 attend and to testify, as well as to produce any document or
2 tangible thing for inspection and copying.

3 (2) The attendance and testimony of any other deponent, as
4 well as the production by the deponent of any document or tangible
5 thing for inspection and copying, requires the service on the
6 deponent of a deposition subpoena under Section 2020.

7 (3) A person may take, and any person other than the deponent
8 may attend, a deposition by telephone or other remote electronic
9 means. The court may expressly provide that a nonparty deponent
10 may appear at his or her deposition by telephone if it finds there
11 is good cause and no prejudice to any party. A party deponent must
12 appear at his or her deposition in person and be in the presence of
13 the deposition officer. The procedures to implement this section
14 shall be established by court order in the specific action proceeding
15 or by the California Rules of Court.

16 (i) Before, during, or after a deposition, any party, any
17 deponent, or any other affected natural person or organization may
18 promptly move for a protective order. The motion shall be
19 accompanied by a declaration stating facts showing a reasonable
20 and good faith attempt at an informal resolution of each issue
21 presented by the motion.

22 The court, for good cause shown, may make any order that
23 justice requires to protect any party, deponent, or other natural
24 person or organization from unwarranted annoyance,
25 embarrassment, or oppression, or undue burden and expense. This
26 protective order may include, but is not limited to, one or more of
27 the following directions:

28 (1) That the deposition not be taken at all.

29 (2) That the deposition be taken at a different time.

30 (3) That a videotape deposition of a treating or consulting
31 physician or of any expert witness, intended for possible use at trial
32 under paragraph (4) of subdivision (u), be postponed until the
33 moving party has had an adequate opportunity to prepare, by
34 discovery deposition of the deponent, or other means, for
35 cross-examination.

36 (4) That the deposition be taken at a place other than that
37 specified in the deposition notice, if it is within a distance
38 permitted by subdivision (e).

39 (5) That the deposition be taken only on certain specified terms
40 and conditions.



- 1 (6) That the deponent’s testimony be taken by written, instead
2 of oral, examination.
- 3 (7) That the method of discovery be interrogatories to a party
4 instead of an oral deposition.
- 5 (8) That the testimony be recorded in a manner different from
6 that specified in the deposition notice.
- 7 (9) That certain matters not be inquired into.
- 8 (10) That the scope of the examination be limited to certain
9 matters.
- 10 (11) That all or certain of the writings or tangible things
11 designated in the deposition notice not be produced, inspected, or
12 copied.
- 13 (12) That designated persons, other than the parties to the
14 action and their officers and counsel, be excluded from attending
15 the deposition.
- 16 (13) That a trade secret or other confidential research,
17 development, or commercial information not be disclosed or be
18 disclosed only to specified persons or only in a specified way.
- 19 (14) That the parties simultaneously file specified documents
20 enclosed in sealed envelopes to be opened as directed by the court.
- 21 (15) That the deposition be sealed and thereafter opened only
22 on order of the court.
- 23 If the motion for a protective order is denied in whole or in part,
24 the court may order that the deponent provide or permit the
25 discovery against which protection was sought on those terms and
26 conditions that are just.
- 27 The court shall impose a monetary sanction under Section 2023
28 against any party, person, or attorney who unsuccessfully makes
29 or opposes a motion for a protective order, unless it finds that the
30 one subject to the sanction acted with substantial justification or
31 that other circumstances make the imposition of the sanction
32 unjust.
- 33 (j) (1) If the party giving notice of a deposition fails to attend
34 or proceed with it, the court shall impose a monetary sanction
35 under Section 2023 against that party, or the attorney for that party,
36 or both, and in favor of any party attending in person or by
37 attorney, unless it finds that the one subject to the sanction acted
38 with substantial justification or that other circumstances make the
39 imposition of the sanction unjust.



1 (2) If a deponent does not appear for a deposition because the
2 party giving notice of the deposition failed to serve a required
3 deposition subpoena, the court shall impose a monetary sanction
4 under Section 2023 against that party, or the attorney for that party,
5 or both, in favor of any other party who, in person or by attorney,
6 attended at the time and place specified in the deposition notice in
7 the expectation that the deponent's testimony would be taken,
8 unless the court finds that the one subject to the sanction acted with
9 substantial justification or that other circumstances make the
10 imposition of the sanction unjust.

11 If a deponent on whom a deposition subpoena has been served
12 fails to attend a deposition or refuses to be sworn as a witness, the
13 court may impose on the deponent the sanctions described in
14 subdivision (h) of Section 2020.

15 (3) If, after service of a deposition notice, a party to the action
16 or an officer, director, managing agent, or employee of a party, or
17 a person designated by an organization that is a party under
18 subdivision (d), without having served a valid objection under
19 subdivision (g), fails to appear for examination, or to proceed with
20 it, or to produce for inspection any document or tangible thing
21 described in the deposition notice, the party giving the notice may
22 move for an order compelling the deponent's attendance and
23 testimony, and the production for inspection of any document or
24 tangible thing described in the deposition notice. This motion (A)
25 shall set forth specific facts showing good cause justifying the
26 production for inspection of any document or tangible thing
27 described in the deposition notice, and (B) shall be accompanied
28 by a declaration stating facts showing a reasonable and good faith
29 attempt at an informal resolution of each issue presented by it or,
30 when the deponent fails to attend the deposition and produce the
31 documents or things described in the deposition notice, by a
32 declaration stating that the petitioner has contacted the deponent
33 to inquire about the nonappearance. If this motion is granted, the
34 court shall also impose a monetary sanction under Section 2023
35 against the deponent or the party with whom the deponent is
36 affiliated, unless it finds that the one subject to the sanction acted
37 with substantial justification or that other circumstances make the
38 imposition of the sanction unjust. On motion of any other party
39 who, in person or by attorney, attended at the time and place
40 specified in the deposition notice in the expectation that the



1 deponent's testimony would be taken, the court shall also impose
2 a monetary sanction under Section 2023, unless it finds that the one
3 subject to the sanction acted with substantial justification or that
4 other circumstances make the imposition of the sanction unjust.

5 If that party or party-affiliated deponent then fails to obey an
6 order compelling attendance, testimony, and production, the court
7 may make those orders that are just, including the imposition of an
8 issue sanction, an evidence sanction, or a terminating sanction
9 under Section 2023 against that party deponent or against the party
10 with whom the deponent is affiliated. In lieu of, or in addition to,
11 this sanction, the court may impose a monetary sanction under
12 Section 2023 against that deponent or against the party with whom
13 that party deponent is affiliated, and in favor of any party who, in
14 person or by attorney, attended in the expectation that the
15 deponent's testimony would be taken pursuant to that order.

16 (k) Except as provided in paragraph (3) of subdivision (d) of
17 Section 2020, the deposition shall be conducted under the
18 supervision of an officer who is authorized to administer an oath
19 and is subject to all of the following requirements:

20 (1) The officer shall not be financially interested in the action
21 and shall not be a relative or employee of any attorney of the
22 parties, or of any of the parties.

23 (2) Services and products offered or provided by the deposition
24 officer or the entity providing the services of the deposition officer
25 to any party or to any party's attorney or third party who is
26 financing all or part of the action shall be offered to all parties or
27 their attorneys attending the deposition. No service or product may
28 be offered or provided by the deposition officer or by the entity
29 providing the services of the deposition officer to any party or any
30 party's attorney or third party who is financing all or part of the
31 action unless the service or product is offered or provided to all
32 parties or their attorneys attending the deposition. All services and
33 products offered or provided shall be made available at the same
34 time to all parties or their attorneys.

35 (3) The deposition officer or the entity providing the services
36 of the deposition officer shall not provide to any party or any
37 party's attorney or third party who is financing all or part of the
38 action any service or product consisting of the deposition officer's
39 notations or comments regarding the demeanor of any witness,
40 attorney, or party present at the deposition. The deposition officer



1 or entity providing the services of the deposition officer shall not
2 collect any personal identifying information about the witness as
3 a service or product to be provided to any party or third party who
4 is financing all or part of the action.

5 (4) Upon the request of any party or any party's attorney
6 attending a deposition, any party or any party's attorney attending
7 the deposition shall enter in the record of the deposition all services
8 and products made available to that party or party's attorney or
9 third party who is financing all or part of the action by the
10 deposition officer or by the entity providing the services of the
11 deposition officer. A party in the action who is not represented by
12 an attorney shall be informed by the noticing party or the party's
13 attorney that the unrepresented party may request this statement.

14 (5) Any objection to the qualifications of the deposition officer
15 shall be waived unless made before the deposition begins or as
16 soon thereafter as the ground for that objection becomes known or
17 could be discovered by reasonable diligence.

18 (l) (1) The deposition officer shall put the deponent under
19 oath. Unless the parties agree or the court orders otherwise, the
20 testimony, as well as any stated objections, shall be taken
21 stenographically. The party noticing the deposition may also
22 record the testimony by audiotape or videotape if the notice of
23 deposition stated an intention also to record the testimony by either
24 of those methods, or if all the parties agree that the testimony may
25 also be recorded by either of those methods. Any other party, at
26 that party's expense, may make a simultaneous audiotape or
27 videotape record of the deposition, provided that other party
28 promptly, and in no event less than three calendar days before the
29 date for which the deposition is scheduled, serves a written notice
30 of this intention to audiotape or videotape the deposition testimony
31 on the party or attorney who noticed the deposition, on all other
32 parties or attorneys on whom the deposition notice was served
33 under subdivision (c), and on any deponent whose attendance is
34 being compelled by a deposition subpoena under Section 2020. If
35 this notice is given three calendar days before the deposition date,
36 it shall be made by personal service under Section 1011.
37 Examination and cross-examination of the deponent shall proceed
38 as permitted at trial under the provisions of the Evidence Code.

39 (2) If the deposition is being recorded by means of audiotape
40 or videotape, the following procedure shall be observed:

1 (A) The area used for recording the deponent’s oral testimony
2 shall be suitably large, adequately lighted, and reasonably quiet.
3 (B) The operator of the recording equipment shall be
4 competent to set up, operate, and monitor the equipment in the
5 manner prescribed in this subdivision. The operator may be an
6 employee of the attorney taking the deposition unless the operator
7 is also the deposition officer. However, if a videotape of deposition
8 testimony is to be used under paragraph (4) of subdivision (u), the
9 operator of the recording equipment shall be a person who is
10 authorized to administer an oath, and shall not be financially
11 interested in the action or be a relative or employee of any attorney
12 of any of the parties, unless all parties attending the deposition
13 agree on the record to waive these qualifications and restrictions.
14 Services and products offered or provided by the deposition officer
15 or the entity providing the services of the deposition officer to any
16 party or to any party’s attorney or third party who is financing all
17 or part of the action shall be offered or provided to all parties or
18 their attorneys attending the deposition. No service or product may
19 be offered or provided by the deposition officer or by the entity
20 providing the services of the deposition officer to any party or any
21 party’s attorney or third party who is financing all or part of the
22 action unless the service or product is offered or provided to all
23 parties or their attorneys attending the deposition. All services and
24 products offered or provided shall be made available at the same
25 time to all parties or their attorneys. The deposition officer or the
26 entity providing the services of the deposition officer shall not
27 provide to any party or any other person or entity any service or
28 product consisting of the deposition officer’s notations or
29 comments regarding the demeanor of any witness, attorney, or
30 party present at the deposition. The deposition officer or the entity
31 providing the services of the deposition officer shall not collect
32 any personal identifying information about the witness as a service
33 or product to be provided to any party or third party who is
34 financing all or part of the action. Upon the request of any party
35 or any party’s attorney attending a deposition, any party or any
36 party’s attorney attending the deposition shall enter in the record
37 of the deposition all services and products made available to that
38 party or party’s attorney or third party who is financing all or part
39 of the action by the deposition officer or by the entity providing the
40 services of the deposition officer. A party in the action who is not



1 represented by an attorney shall be informed by the noticing party
2 that the unrepresented party may request this statement.

3 (C) The operator shall not distort the appearance or the
4 demeanor of participants in the deposition by the use of camera or
5 sound recording techniques.

6 (D) The deposition shall begin with an oral or written statement
7 on camera or on the audiotape that includes the operator's name
8 and business address, the name and business address of the
9 operator's employer, the date, time, and place of the deposition,
10 the caption of the case, the name of the deponent, a specification
11 of the party on whose behalf the deposition is being taken, and any
12 stipulations by the parties.

13 (E) Counsel for the parties shall identify themselves on camera
14 or on the audiotape.

15 (F) The oath shall be administered to the deponent on camera
16 or on the audiotape.

17 (G) If the length of a deposition requires the use of more than
18 one unit of tape, the end of each unit and the beginning of each
19 succeeding unit shall be announced on camera or on the audiotape.

20 (H) At the conclusion of a deposition, a statement shall be made
21 on camera or on the audiotape that the deposition is ended and shall
22 set forth any stipulations made by counsel concerning the custody
23 of the audiotape or videotape recording and the exhibits, or
24 concerning other pertinent matters.

25 (I) A party intending to offer an audiotaped or videotaped
26 recording of a deposition in evidence under subdivision (u) shall
27 notify the court and all parties in writing of that intent and of the
28 parts of the deposition to be offered within sufficient time for
29 objections to be made and ruled on by the judge to whom the case
30 is assigned for trial or hearing, and for any editing of the tape.
31 Objections to all or part of the deposition shall be made in writing.
32 The court may permit further designations of testimony and
33 objections as justice may require. With respect to those portions of
34 an audiotaped or videotaped deposition that are not designated by
35 any party or that are ruled to be objectionable, the court may order
36 that the party offering the recording of the deposition at the trial
37 or hearing suppress those portions, or that an edited version of the
38 deposition tape be prepared for use at the trial or hearing. The
39 original audiotape or videotape of the deposition shall be
40 preserved unaltered. If no stenographic record of the deposition



1 testimony has previously been made, the party offering a
2 videotape or an audiotape recording of that testimony under
3 subdivision (u) shall accompany that offer with a stenographic
4 transcript prepared from that recording.

5 (3) In lieu of participating in the oral examination, parties may
6 transmit written questions in a sealed envelope to the party taking
7 the deposition for delivery to the deposition officer, who shall
8 unseal the envelope and propound them to the deponent after the
9 oral examination has been completed.

10 (m) (1) The protection of information from discovery on the
11 ground that it is privileged or that it is a protected work product
12 under Section 2018 is waived unless a specific objection to its
13 disclosure is timely made during the deposition.

14 (2) Errors and irregularities of any kind occurring at the oral
15 examination that might be cured if promptly presented are waived
16 unless a specific objection to them is timely made during the
17 deposition. These errors and irregularities include, but are not
18 limited to, those relating to the manner of taking the deposition, to
19 the oath or affirmation administered, to the conduct of a party,
20 attorney, deponent, or deposition officer, or to the form of any
21 question or answer. Unless the objecting party demands that the
22 taking of the deposition be suspended to permit a motion for a
23 protective order under subdivision (n), the deposition shall
24 proceed subject to the objection.

25 (3) Objections to the competency of the deponent, or to the
26 relevancy, materiality, or admissibility at trial of the testimony or
27 of the materials produced are unnecessary and are not waived by
28 failure to make them before or during the deposition.

29 (4) If a deponent fails to answer any question or to produce any
30 document or tangible thing under the deponent's control that is
31 specified in the deposition notice or a deposition subpoena, the
32 party seeking that answer or production may adjourn the
33 deposition or complete the examination on other matters without
34 waiving the right at a later time to move for an order compelling
35 that answer or production under subdivision (o).

36 (n) The deposition officer shall not suspend the taking of
37 testimony without stipulation of the party conducting the
38 deposition and the deponent unless any party attending the
39 deposition or the deponent demands the taking of testimony be
40 suspended to enable that party or deponent to move for a protective



1 order on the ground that the examination is being conducted in bad
2 faith or in a manner that unreasonably annoys, embarrasses, or
3 oppresses that deponent or party. This motion shall be
4 accompanied by a declaration stating facts showing a reasonable
5 and good faith attempt at an informal resolution of each issue
6 presented by the motion. The court, for good cause shown, may
7 terminate the examination or may limit the scope and manner of
8 taking the deposition as provided in subdivision (i). If the order
9 terminates the examination, the deposition shall not thereafter be
10 resumed, except on order of the court.

11 The court shall impose a monetary sanction under Section 2023
12 against any party, person, or attorney who unsuccessfully makes
13 or opposes a motion for this protective order, unless it finds that
14 the one subject to the sanction acted with substantial justification
15 or that other circumstances make the imposition of the sanction
16 unjust.

17 (o) If a deponent fails to answer any question or to produce any
18 document or tangible thing under the deponent's control that is
19 specified in the deposition notice or a deposition subpoena, the
20 party seeking discovery may move the court for an order
21 compelling that answer or production. This motion shall be made
22 no later than 60 days after the completion of the record of the
23 deposition, and shall be accompanied by a declaration stating facts
24 showing a reasonable and good faith attempt at an informal
25 resolution of each issue presented by the motion. Notice of this
26 motion shall be given to all parties, and to the deponent either
27 orally at the examination, or by subsequent service in writing. If
28 the notice of the motion is given orally, the deposition officer shall
29 direct the deponent to attend a session of the court at the time
30 specified in the notice. Not less than five days prior to the hearing
31 on this motion, the moving party shall lodge with the court a
32 certified copy of any parts of the stenographic transcript of the
33 deposition that are relevant to the motion. If a deposition is
34 recorded by audiotape or videotape, the moving party is required
35 to lodge a certified copy of a transcript of any parts of the
36 deposition that are relevant to the motion. If the court determines
37 that the answer or production sought is subject to discovery, it shall
38 order that the answer be given or the production be made on the
39 resumption of the deposition.



1 The court shall impose a monetary sanction under Section 2023
2 against any party, person, or attorney who unsuccessfully makes
3 or opposes a motion to compel answer or production, unless it
4 finds that the one subject to the sanction acted with substantial
5 justification or that other circumstances make the imposition of the
6 sanction unjust.

7 If a deponent fails to obey an order entered under this
8 subdivision, the failure may be considered a contempt of court. In
9 addition, if the disobedient deponent is a party to the action or an
10 officer, director, managing agent, or employee of a party, the court
11 may make those orders that are just against the disobedient party,
12 or against the party with whom the disobedient deponent is
13 affiliated, including the imposition of an issue sanction, an
14 evidence sanction, or a terminating sanction under Section 2023.
15 In lieu of, or in addition to, this sanction, the court may impose a
16 monetary sanction under Section 2023 against that party deponent
17 or against any party with whom the deponent is affiliated.

18 (p) Unless the parties agree otherwise, the testimony at any
19 deposition recorded by stenographic means shall be transcribed.
20 The party noticing the deposition shall bear the cost of that
21 transcription, unless the court, on motion and for good cause
22 shown, orders that the cost be borne or shared by another party.
23 Notwithstanding paragraph (2) of subdivision (k), any other party,
24 at that party's expense, may obtain a copy of the transcript. If the
25 deposition officer receives a request from a party for an original
26 or a copy of the deposition transcript, or any portion thereof, and
27 the document will be available to that party prior to the time the
28 original or copy would be available to any other party, the
29 deposition officer shall immediately notify all other parties
30 attending the deposition of the request, and shall, upon request by
31 any party other than the party making the original request, make
32 that copy of the full or partial deposition transcript available to all
33 parties at the same time. Stenographic notes of depositions shall
34 be retained by the reporter for a period of not less than eight years
35 from the date of the deposition, where no transcript is produced,
36 and not less than one year from the date on which the transcript is
37 produced. Those notes may be either on paper or electronic media,
38 as long as it allows for satisfactory production of a transcript at any
39 time during the periods specified. At the request of any other party
40 to the action, including a party who did not attend the taking of the



1 deposition testimony, any party who records or causes the
2 recording of that testimony by means of audiotape or videotape
3 shall promptly (1) permit that other party to hear the audiotape or
4 to view the videotape, and (2) furnish a copy of the audiotape or
5 videotape to that other party on receipt of payment of the
6 reasonable cost of making that copy of the tape.

7 If the testimony at the deposition is recorded both
8 stenographically, and by audiotape or videotape, the stenographic
9 transcript is the official record of that testimony for the purpose of
10 the trial and any subsequent hearing or appeal.

11 (q) (1) If the deposition testimony is stenographically
12 recorded, the deposition officer shall send written notice to the
13 deponent and to all parties attending the deposition when the
14 original transcript of the testimony for each session of the
15 deposition is available for reading, correcting, and signing, unless
16 the deponent and the attending parties agree on the record that the
17 reading, correcting, and signing of the transcript of the testimony
18 will be waived or that the reading, correcting, and signing of a
19 transcript of the testimony will take place after the entire
20 deposition has been concluded or at some other specific time. For
21 30 days following each notice, unless the attending parties and the
22 deponent agree on the record or otherwise in writing to a longer or
23 shorter time period, the deponent may change the form or the
24 substance of the answer to a question, and may either approve the
25 transcript of the deposition by signing it, or refuse to approve the
26 transcript by not signing it.

27 Alternatively, within this same period, the deponent may
28 change the form or the substance of the answer to any question and
29 may approve or refuse to approve the transcript by means of a letter
30 to the deposition officer signed by the deponent which is mailed
31 by certified or registered mail with return receipt requested. A
32 copy of that letter shall be sent by first-class mail to all parties
33 attending the deposition. For good cause shown, the court may
34 shorten the 30-day period for making changes, approving, or
35 refusing to approve the transcript.

36 The deposition officer shall indicate on the original of the
37 transcript, if the deponent has not already done so at the office of
38 the deposition officer, any action taken by the deponent and
39 indicate on the original of the transcript, the deponent's approval
40 of, or failure or refusal to approve, the transcript. The deposition



1 officer shall also notify in writing the parties attending the
2 deposition of any changes which the deponent timely made in
3 person. If the deponent fails or refuses to approve the transcript
4 within the allotted period, the deposition shall be given the same
5 effect as though it had been approved, subject to any changes
6 timely made by the deponent. However, on a seasonable motion
7 to suppress the deposition, accompanied by a declaration stating
8 facts showing a reasonable and good faith attempt at an informal
9 resolution of each issue presented by the motion, the court may
10 determine that the reasons given for the failure or refusal to
11 approve the transcript require rejection of the deposition in whole
12 or in part.

13 The court shall impose a monetary sanction under Section 2023
14 against any party, person, or attorney who unsuccessfully makes
15 or opposes a motion to suppress a deposition, unless it finds that
16 the one subject to the sanction acted with substantial justification
17 or that other circumstances make the imposition of the sanction
18 unjust.

19 (2) If there is no stenographic transcription of the deposition,
20 the deposition officer shall send written notice to the deponent and
21 to all parties attending the deposition that the recording is available
22 for review, unless the deponent and all these parties agree on the
23 record to waive the hearing or viewing of an audiotape or
24 videotape recording of the testimony. For 30 days following this
25 notice the deponent, either in person or by signed letter to the
26 deposition officer, may change the substance of the answer to any
27 question.

28 The deposition officer shall set forth in a writing to accompany
29 the recording any changes made by the deponent, as well as either
30 the deponent's signature identifying the deposition as his or her
31 own, or a statement of the deponent's failure to supply the
32 signature, or to contact the officer within the allotted period. When
33 a deponent fails to contact the officer within the allotted period, or
34 expressly refuses by a signature to identify the deposition as his or
35 her own, the deposition shall be given the same effect as though
36 signed. However, on a reasonable motion to suppress the
37 deposition, accompanied by a declaration stating facts showing a
38 reasonable and good faith attempt at an informal resolution of each
39 issue presented by the motion, the court may determine that the



1 reasons given for the refusal to sign require rejection of the
2 deposition in whole or in part.

3 The court shall impose a monetary sanction under Section 2023
4 against any party, person, or attorney who unsuccessfully makes
5 or opposes a motion to suppress a deposition, unless it finds that
6 the one subject to the sanction acted with substantial justification
7 or that other circumstances make the imposition of the sanction
8 unjust.

9 (r) (1) The deposition officer shall certify on the transcript of
10 the deposition, or in a writing accompanying an audiotaped or
11 videotaped deposition as described in paragraph (2) of subdivision
12 (q), that the deponent was duly sworn and that the transcript or
13 recording is a true record of the testimony given.

14 (2) When prepared as a rough draft transcript, the transcript of
15 the deposition may not be certified and may not be used, cited, or
16 transcribed as the certified transcript of the deposition
17 proceedings. The rough draft transcript may not be cited or used
18 in any way or at any time to rebut or contradict the certified
19 transcript of deposition proceedings as provided by the deposition
20 officer.

21 (s) (1) The certified transcript of a deposition shall not be filed
22 with the court. Instead, the deposition officer shall securely seal
23 that transcript in an envelope or package endorsed with the title of
24 the action and marked: “Deposition of (here insert name of
25 deponent),” and shall promptly transmit it to the attorney for the
26 party who noticed the deposition. This attorney shall store it under
27 conditions that will protect it against loss, destruction, or
28 tampering.

29 The attorney to whom the transcript of a deposition is
30 transmitted shall retain custody of it until six months after final
31 disposition of the action. At that time, the transcript may be
32 destroyed, unless the court, on motion of any party and for good
33 cause shown, orders that the transcript be preserved for a longer
34 period.

35 (2) An audiotape or videotape record of deposition testimony,
36 including a certified tape made by an operator qualified under
37 subparagraph (B) of paragraph (2) of subdivision (l), shall not be
38 filed with the court. Instead, the operator shall retain custody of
39 that record and shall store it under conditions that will protect it
40 against loss, destruction, or tampering, and preserve as far as



1 practicable the quality of the tape and the integrity of the testimony
2 and images it contains.

3 At the request of any party to the action, including a party who
4 did not attend the taking of the deposition testimony, or at the
5 request of the deponent, that operator shall promptly (A) permit
6 the one making the request to hear or to view the tape on receipt
7 of payment of a reasonable charge for providing the facilities for
8 hearing or viewing the tape, and (B) furnish a copy of the audiotape
9 or the videotape recording to the one making the request on receipt
10 of payment of the reasonable cost of making that copy of the tape.

11 The attorney or operator who has custody of an audiotape or
12 videotape record of deposition testimony shall retain custody of it
13 until six months after final disposition of the action. At that time,
14 the audiotape or videotape may be destroyed or erased, unless the
15 court, on motion of any party and for good cause shown, orders
16 that the tape be preserved for a longer period.

17 (t) Once any party has taken the deposition of any natural
18 person, including that of a party to the action, neither the party who
19 gave, nor any other party who has been served with a deposition
20 notice pursuant to subdivision (c) may take a subsequent
21 deposition of that deponent. However, for good cause shown, the
22 court may grant leave to take a subsequent deposition, and the
23 parties, with the consent of any deponent who is not a party, may
24 stipulate that a subsequent deposition be taken. This subdivision
25 does not preclude taking one subsequent deposition of a natural
26 person who has previously been examined (1) as a result of that
27 person's designation to testify on behalf of an organization under
28 subdivision (d), or (2), pursuant to a court order under Section
29 485.230, for the limited purpose of discovering pursuant to
30 Section 485.230 the identity, location, and value of property in
31 which the deponent has an interest. This subdivision does not
32 authorize the taking of more than one subsequent deposition for
33 the limited purpose of Section 485.230.

34 (u) At the trial or any other hearing in the action, any part or all
35 of a deposition may be used against any party who was present or
36 represented at the taking of the deposition, or who had due notice
37 of the deposition and did not serve a valid objection under
38 subdivision (g), so far as admissible under the rules of evidence
39 applied as though the deponent were then present and testifying as
40 a witness, in accordance with the following provisions:



1 (1) Any party may use a deposition for the purpose of
2 contradicting or impeaching the testimony of the deponent as a
3 witness, or for any other purpose permitted by the Evidence Code.

4 (2) An adverse party may use for any purpose, a deposition of
5 a party to the action, or of anyone who at the time of taking the
6 deposition was an officer, director, managing agent, employee,
7 agent, or designee under subdivision (d) of a party. It is not ground
8 for objection to the use of a deposition of a party under this
9 paragraph by an adverse party that the deponent is available to
10 testify, has testified, or will testify at the trial or other hearing.

11 (3) Any party may use for any purpose the deposition of any
12 person or organization, including that of any party to the action,
13 if the court finds any of the following:

14 (A) The deponent resides more than 150 miles from the place
15 of the trial or other hearing.

16 (B) The deponent, without the procurement or wrongdoing of
17 the proponent of the deposition for the purpose of preventing
18 testimony in open court, is (i) exempted or precluded on the
19 ground of privilege from testifying concerning the matter to which
20 the deponent's testimony is relevant, (ii) disqualified from
21 testifying, (iii) dead or unable to attend or testify because of
22 existing physical or mental illness or infirmity, (iv) absent from the
23 trial or other hearing and the court is unable to compel the
24 deponent's attendance by its process, or (v) absent from the trial
25 or other hearing and the proponent of the deposition has exercised
26 reasonable diligence but has been unable to procure the deponent's
27 attendance by the court's process.

28 (C) Exceptional circumstances exist that make it desirable to
29 allow the use of any deposition in the interests of justice and with
30 due regard to the importance of presenting the testimony of
31 witnesses orally in open court.

32 (4) Any party may use a videotape deposition of a treating or
33 consulting physician or of any expert witness even though the
34 deponent is available to testify if the deposition notice under
35 subdivision (d) reserved the right to use the deposition at trial, and
36 if that party has complied with subparagraph (I) of paragraph (2)
37 of subdivision (l).

38 (5) Subject to the requirements of this section, a party may offer
39 in evidence all or any part of a deposition, and if the party



1 introduces only part of the deposition, any other party may
2 introduce any other parts that are relevant to the parts introduced.

3 (6) Substitution of parties does not affect the right to use
4 depositions previously taken.

5 (7) When an action has been brought in any court of the United
6 States or of any state, and another action involving the same
7 subject matter is subsequently brought between the same parties
8 or their representatives or successors in interest, all depositions
9 lawfully taken and duly filed in the initial action may be used in
10 the subsequent action as if originally taken in that subsequent
11 action. A deposition previously taken may also be used as
12 permitted by the Evidence Code.

13 (v) Violation of subdivision (k) by any person may result in a
14 civil penalty of up to five thousand dollars (\$5,000) imposed by a
15 court of competent jurisdiction.

16 *SEC. 9.7. Section 2025 of the Code of Civil Procedure is*
17 *amended to read:*

18 2025. (a) Any party may obtain discovery within the scope
19 delimited by Section 2017, and subject to the restrictions set forth
20 in Section 2019, by taking in California the oral deposition of any
21 person, including any party to the action. The person deposed may
22 be a natural person, an organization such as a public or private
23 corporation, a partnership, an association, or a governmental
24 agency.

25 (b) Subject to subdivisions (f) and (t), an oral deposition may
26 be taken as follows:

27 (1) The defendant may serve a deposition notice without leave
28 of court at any time after that defendant has been served or has
29 appeared in the action, whichever occurs first.

30 (2) The plaintiff may serve a deposition notice without leave of
31 court on any date that is 20 days after the service of the summons
32 on, or appearance by, any defendant. However, on motion with or
33 without notice, the court, for good cause shown, may grant to a
34 plaintiff leave to serve a deposition notice on an earlier date.

35 (c) A party desiring to take the oral deposition of any person
36 shall give notice in writing in the manner set forth in subdivision
37 (d). However, where under subdivision (d) of Section 2020 only
38 the production by a nonparty of business records for copying is
39 desired, a copy of the deposition subpoena shall serve as the notice
40 of deposition. The notice of deposition shall be given to every



1 other party who has appeared in the action. The deposition notice,
2 or the accompanying proof of service, shall list all the parties or
3 attorneys for parties on whom it is served.

4 Where, as defined in subdivision (a) of Section 1985.3, the party
5 giving notice of the deposition is a subpoenaing party, and the
6 deponent is a witness commanded by a deposition subpoena to
7 produce personal records of a consumer, the subpoenaing party
8 shall serve on that consumer (1) a notice of the deposition, (2) the
9 notice of privacy rights specified in subdivision (e) of Section
10 1985.3 and in Section 1985.6, and (3) a copy of the deposition
11 subpoena.

12 (d) The deposition notice shall state all of the following:

13 (1) The address where the deposition will be taken.

14 (2) The date of the deposition, selected under subdivision (f),
15 and the time it will commence.

16 (3) The name of each deponent, and the address and telephone
17 number, if known, of any deponent who is not a party to the action.
18 If the name of the deponent is not known, the deposition notice
19 shall set forth instead a general description sufficient to identify
20 the person or particular class to which the person belongs.

21 (4) The specification with reasonable particularity of any
22 materials or category of materials to be produced by the deponent.

23 (5) Any intention to record the testimony by audiotape or
24 videotape, in addition to recording the testimony by the
25 stenographic method as required by paragraph (1) of subdivision
26 (l) and any intention to record the testimony by stenographic
27 method, through the instant visual display of the testimony. In the
28 latter event, a copy of the deposition notice shall also be given to
29 the deposition officer. Any offer to provide the instant visual
30 display of the testimony or to provide rough draft transcripts to any
31 party which is accepted prior to, or offered at, the deposition shall
32 also be made by the deposition officer at the deposition to all
33 parties in attendance.

34 (6) Any intention to reserve the right to use at trial a videotape
35 deposition of a treating or consulting physician or of any expert
36 witness under paragraph (4) of subdivision (u). In this event, the
37 operator of the videotape camera shall be a person who is
38 authorized to administer an oath, and shall not be financially
39 interested in the action or be a relative or employee of any attorney
40 of any of the parties.



1 If the deponent named is not a natural person, the deposition
2 notice shall describe with reasonable particularity the matters on
3 which examination is requested. In that event, the deponent shall
4 designate and produce at the deposition those of its officers,
5 directors, managing agents, employees, or agents who are most
6 qualified to testify on its behalf as to those matters to the extent of
7 any information known or reasonably available to the deponent.
8 A deposition subpoena shall advise a nonparty deponent of its duty
9 to make this designation, and shall describe with reasonable
10 particularity the matters on which examination is requested.

11 If the attendance of the deponent is to be compelled by service
12 of a deposition subpoena under Section 2020, an identical copy of
13 that subpoena shall be served with the deposition notice.

14 (e) (1) The deposition of a natural person, whether or not a
15 party to the action, shall be taken at a place that is, at the option of
16 the party giving notice of the deposition, either within 75 miles of
17 the deponent's residence, or within the county where the action is
18 pending and within 150 miles of the deponent's residence, unless
19 the court orders otherwise under paragraph (3).

20 (2) The deposition of an organization that is a party to the action
21 shall be taken at a place that is, at the option of the party giving
22 notice of the deposition, either within 75 miles of the
23 organization's principal executive or business office in California,
24 or within the county where the action is pending and within 150
25 miles of that office. The deposition of any other organization shall
26 be taken within 75 miles of the organization's principal executive
27 or business office in California, unless the organization consents
28 to a more distant place. If the organization has not designated a
29 principal executive or business office in California, the deposition
30 shall be taken at a place that is, at the option of the party giving
31 notice of the deposition, either within the county where the action
32 is pending, or within 75 miles of any executive or business office
33 in California of the organization.

34 (3) A party desiring to take the deposition of a natural person
35 who is a party to the action or an officer, director, managing agent,
36 or employee of a party may make a motion for an order that the
37 deponent attend for deposition at a place that is more distant than
38 that permitted under paragraph (1). This motion shall be
39 accompanied by a declaration stating facts showing a reasonable



1 and good faith attempt at an informal resolution of any issue
2 presented by the motion.

3 In exercising its discretion to grant or deny this motion, the court
4 shall take into consideration any factor tending to show whether
5 the interests of justice will be served by requiring the deponent's
6 attendance at that more distant place, including, but not limited to,
7 the following:

8 (A) Whether the moving party selected the forum.

9 (B) Whether the deponent will be present to testify at the trial
10 of the action.

11 (C) The convenience of the deponent.

12 (D) The feasibility of conducting the deposition by written
13 questions under Section 2028, or of using a discovery method
14 other than a deposition.

15 (E) The number of depositions sought to be taken at a place
16 more distant than that permitted under paragraph (1).

17 (F) The expense to the parties of requiring the deposition to be
18 taken within the distance permitted under paragraph (1).

19 (G) The whereabouts of the deponent at the time for which the
20 deposition is scheduled.

21 The order may be conditioned on the advancement by the
22 moving party of the reasonable expenses and costs to the deponent
23 for travel to the place of deposition.

24 The court shall impose a monetary sanction under Section 2023
25 against any party, person, or attorney who unsuccessfully makes
26 or opposes a motion to increase travel limits for party deponent,
27 unless it finds that the one subject to the sanction acted with
28 substantial justification or that other circumstances make the
29 imposition of the sanction unjust.

30 (f) An oral deposition shall be scheduled for a date at least 10
31 days after service of the deposition notice. If, as defined in
32 subdivision (a) of Section 1985.3, the party giving notice of the
33 deposition is a subpoenaing party, and the deponent is a witness
34 commanded by a deposition subpoena to produce personal records
35 of a consumer, the deposition shall be scheduled for a date at least
36 20 days after issuance of that subpoena. However, in unlawful
37 detainer actions, an oral deposition shall be scheduled for a date at
38 least five days after service of the deposition notice, but not later
39 than five days before trial.

1 On motion or ex parte application of any party or deponent, for
2 good cause shown, the court may shorten or extend the time for
3 scheduling a deposition, or may stay its taking until the
4 determination of a motion for a protective order under subdivision
5 (i).

6 (g) Any party served with a deposition notice that does not
7 comply with subdivisions (b) to (f), inclusive, waives any error or
8 irregularity unless that party promptly serves a written objection
9 specifying that error or irregularity at least three calendar days
10 prior to the date for which the deposition is scheduled, on the party
11 seeking to take the deposition and any other attorney or party on
12 whom the deposition notice was served. If an objection is made
13 three calendar days before the deposition date, the objecting party
14 shall make personal service of that objection pursuant to Section
15 1011 on the party who gave notice of the deposition. Any
16 deposition taken after the service of a written objection shall not
17 be used against the objecting party under subdivision (u) if the
18 party did not attend the deposition and if the court determines that
19 the objection was a valid one.

20 In addition to serving this written objection, a party may also
21 move for an order staying the taking of the deposition and
22 quashing the deposition notice. This motion shall be accompanied
23 by a declaration stating facts showing a reasonable and good faith
24 attempt at an informal resolution of any issue presented by the
25 motion. The taking of the deposition is stayed pending the
26 determination of this motion.

27 The court shall impose a monetary sanction under Section 2023
28 against any party, person, or attorney who unsuccessfully makes
29 or opposes a motion to quash a deposition notice, unless it finds
30 that the one subject to the sanction acted with substantial
31 justification or that other circumstances make the imposition of the
32 sanction unjust.

33 (h) (1) The service of a deposition notice under subdivision (c)
34 is effective to require any deponent who is a party to the action or
35 an officer, director, managing agent, or employee of a party to
36 attend and to testify, as well as to produce any document or
37 tangible thing for inspection and copying.

38 (2) The attendance and testimony of any other deponent, as
39 well as the production by the deponent of any document or tangible



1 thing for inspection and copying, requires the service on the
2 deponent of a deposition subpoena under Section 2020.

3 (3) *A person may take, and any person other than the deponent*
4 *may attend, a deposition by telephone or other remote electronic*
5 *means. The court may expressly provide that a nonparty deponent*
6 *may appear at his or her deposition by telephone if it finds there*
7 *is good cause and no prejudice to any party. A party deponent must*
8 *appear at his or her deposition in person and be in the presence of*
9 *the deposition officer. The procedures to implement this section*
10 *shall be established by court order in the specific action*
11 *proceeding or by the California Rules of Court.*

12 (i) Before, during, or after a deposition, any party, any
13 deponent, or any other affected natural person or organization may
14 promptly move for a protective order. The motion shall be
15 accompanied by a declaration stating facts showing a reasonable
16 and good faith attempt at an informal resolution of each issue
17 presented by the motion.

18 The court, for good cause shown, may make any order that
19 justice requires to protect any party, deponent, or other natural
20 person or organization from unwarranted annoyance,
21 embarrassment, or oppression, or undue burden and expense. This
22 protective order may include, but is not limited to, one or more of
23 the following directions:

24 (1) That the deposition not be taken at all.

25 (2) That the deposition be taken at a different time.

26 (3) That a videotape deposition of a treating or consulting
27 physician or of any expert witness, intended for possible use at trial
28 under paragraph (4) of subdivision (u), be postponed until the
29 moving party has had an adequate opportunity to prepare, by
30 discovery deposition of the deponent, or other means, for
31 cross-examination.

32 (4) That the deposition be taken at a place other than that
33 specified in the deposition notice, if it is within a distance
34 permitted by subdivision (e).

35 (5) That the deposition be taken only on certain specified terms
36 and conditions.

37 (6) That the deponent's testimony be taken by written, instead
38 of oral, examination.

39 (7) That the method of discovery be interrogatories to a party
40 instead of an oral deposition.



1 (8) That the testimony be recorded in a manner different from
2 that specified in the deposition notice.

3 (9) That certain matters not be inquired into.

4 (10) That the scope of the examination be limited to certain
5 matters.

6 (11) That all or certain of the writings or tangible things
7 designated in the deposition notice not be produced, inspected, or
8 copied.

9 (12) That designated persons, other than the parties to the
10 action and their officers and counsel, be excluded from attending
11 the deposition.

12 (13) That a trade secret or other confidential research,
13 development, or commercial information not be disclosed or be
14 disclosed only to specified persons or only in a specified way.

15 (14) That the parties simultaneously file specified documents
16 enclosed in sealed envelopes to be opened as directed by the court.

17 (15) That the deposition be sealed and thereafter opened only
18 on order of the court.

19 If the motion for a protective order is denied in whole or in part,
20 the court may order that the deponent provide or permit the
21 discovery against which protection was sought on those terms and
22 conditions that are just.

23 The court shall impose a monetary sanction under Section 2023
24 against any party, person, or attorney who unsuccessfully makes
25 or opposes a motion for a protective order, unless it finds that the
26 one subject to the sanction acted with substantial justification or
27 that other circumstances make the imposition of the sanction
28 unjust.

29 (j) (1) If the party giving notice of a deposition fails to attend
30 or proceed with it, the court shall impose a monetary sanction
31 under Section 2023 against that party, or the attorney for that party,
32 or both, and in favor of any party attending in person or by
33 attorney, unless it finds that the one subject to the sanction acted
34 with substantial justification or that other circumstances make the
35 imposition of the sanction unjust.

36 (2) If a deponent does not appear for a deposition because the
37 party giving notice of the deposition failed to serve a required
38 deposition subpoena, the court shall impose a monetary sanction
39 under Section 2023 against that party, or the attorney for that party,
40 or both, in favor of any other party who, in person or by attorney,



1 attended at the time and place specified in the deposition notice in
2 the expectation that the deponent’s testimony would be taken,
3 unless the court finds that the one subject to the sanction acted with
4 substantial justification or that other circumstances make the
5 imposition of the sanction unjust.

6 If a deponent on whom a deposition subpoena has been served
7 fails to attend a deposition or refuses to be sworn as a witness, the
8 court may impose on the deponent the sanctions described in
9 subdivision (h) of Section 2020.

10 (3) If, after service of a deposition notice, a party to the action
11 or an officer, director, managing agent, or employee of a party, or
12 a person designated by an organization that is a party under
13 subdivision (d), without having served a valid objection under
14 subdivision (g), fails to appear for examination, or to proceed with
15 it, or to produce for inspection any document or tangible thing
16 described in the deposition notice, the party giving the notice may
17 move for an order compelling the deponent’s attendance and
18 testimony, and the production for inspection of any document or
19 tangible thing described in the deposition notice. This motion (A)
20 shall set forth specific facts showing good cause justifying the
21 production for inspection of any document or tangible thing
22 described in the deposition notice, and (B) shall be accompanied
23 by a declaration stating facts showing a reasonable and good faith
24 attempt at an informal resolution of each issue presented by it or,
25 when the deponent fails to attend the deposition and produce the
26 documents or things described in the deposition notice, by a
27 declaration stating that the petitioner has contacted the deponent
28 to inquire about the nonappearance. If this motion is granted, the
29 court shall also impose a monetary sanction under Section 2023
30 against the deponent or the party with whom the deponent is
31 affiliated, unless it finds that the one subject to the sanction acted
32 with substantial justification or that other circumstances make the
33 imposition of the sanction unjust. On motion of any other party
34 who, in person or by attorney, attended at the time and place
35 specified in the deposition notice in the expectation that the
36 deponent’s testimony would be taken, the court shall also impose
37 a monetary sanction under Section 2023, unless it finds that the one
38 subject to the sanction acted with substantial justification or that
39 other circumstances make the imposition of the sanction unjust.



1 If that party or party-affiliated deponent then fails to obey an
2 order compelling attendance, testimony, and production, the court
3 may make those orders that are just, including the imposition of an
4 issue sanction, an evidence sanction, or a terminating sanction
5 under Section 2023 against that party deponent or against the party
6 with whom the deponent is affiliated. In lieu of, or in addition to,
7 this sanction, the court may impose a monetary sanction under
8 Section 2023 against that deponent or against the party with whom
9 that party deponent is affiliated, and in favor of any party who, in
10 person or by attorney, attended in the expectation that the
11 deponent's testimony would be taken pursuant to that order.

12 (k) Except as provided in paragraph (3) of subdivision (d) of
13 Section 2020, the deposition shall be conducted under the
14 supervision of an officer who is authorized to administer an oath
15 and is subject to all of the following requirements:

16 (1) The officer shall not be financially interested in the action
17 and shall not be a relative or employee of any attorney of the
18 parties, or of any of the parties.

19 (2) Services and products offered or provided by the deposition
20 officer or the entity providing the services of the deposition officer
21 to any party or to any party's attorney or third party who is
22 financing all or part of the action shall be offered to all parties or
23 their attorneys attending the deposition. No service or product may
24 be offered or provided by the deposition officer or by the entity
25 providing the services of the deposition officer to any party or any
26 party's attorney or third party who is financing all or part of the
27 action unless the service or product is offered or provided to all
28 parties or their attorneys attending the deposition. All services and
29 products offered or provided shall be made available at the same
30 time to all parties or their attorneys.

31 (3) The deposition officer or the entity providing the services
32 of the deposition officer shall not provide to any party or any
33 party's attorney or third party who is financing all or part of the
34 action any service or product consisting of the deposition officer's
35 notations or comments regarding the demeanor of any witness,
36 attorney, or party present at the deposition. The deposition officer
37 or entity providing the services of the deposition officer shall not
38 collect any personal identifying information about the witness as
39 a service or product to be provided to any party or third party who
40 is financing all or part of the action.



1 (4) Upon the request of any party or any party's attorney
2 attending a deposition, any party or any party's attorney attending
3 the deposition shall enter in the record of the deposition all services
4 and products made available to that party or party's attorney or
5 third party who is financing all or part of the action by the
6 deposition officer or by the entity providing the services of the
7 deposition officer. A party in the action who is not represented by
8 an attorney shall be informed by the noticing party or the party's
9 attorney that the unrepresented party may request this statement.

10 (5) Any objection to the qualifications of the deposition officer
11 shall be waived unless made before the deposition begins or as
12 soon thereafter as the ground for that objection becomes known or
13 could be discovered by reasonable diligence.

14 (l) (1) The deposition officer shall put the deponent under
15 oath. Unless the parties agree or the court orders otherwise, the
16 testimony, as well as any stated objections, shall be taken
17 stenographically. The party noticing the deposition may also
18 record the testimony by audiotape or videotape if the notice of
19 deposition stated an intention also to record the testimony by either
20 of those methods, or if all the parties agree that the testimony may
21 also be recorded by either of those methods. Any other party, at
22 that party's expense, may make a simultaneous audiotape or
23 videotape record of the deposition, provided that other party
24 promptly, and in no event less than three calendar days before the
25 date for which the deposition is scheduled, serves a written notice
26 of this intention to audiotape or videotape the deposition testimony
27 on the party or attorney who noticed the deposition, on all other
28 parties or attorneys on whom the deposition notice was served
29 under subdivision (c), and on any deponent whose attendance is
30 being compelled by a deposition subpoena under Section 2020. If
31 this notice is given three calendar days before the deposition date,
32 it shall be made by personal service under Section 1011.
33 Examination and cross-examination of the deponent shall proceed
34 as permitted at trial under the provisions of the Evidence Code.

35 (2) If the deposition is being recorded by means of audiotape
36 or videotape, the following procedure shall be observed:

37 (A) The area used for recording the deponent's oral testimony
38 shall be suitably large, adequately lighted, and reasonably quiet.

39 (B) The operator of the recording equipment shall be
40 competent to set up, operate, and monitor the equipment in the



1 manner prescribed in this subdivision. The operator may be an
2 employee of the attorney taking the deposition unless the operator
3 is also the deposition officer. However, if a videotape of deposition
4 testimony is to be used under paragraph (4) of subdivision (u), the
5 operator of the recording equipment shall be a person who is
6 authorized to administer an oath, and shall not be financially
7 interested in the action or be a relative or employee of any attorney
8 of any of the parties, unless all parties attending the deposition
9 agree on the record to waive these qualifications and restrictions.
10 Services and products offered or provided by the deposition officer
11 or the entity providing the services of the deposition officer to any
12 party or to any party's attorney or third party who is financing all
13 or part of the action shall be offered or provided to all parties or
14 their attorneys attending the deposition. No service or product may
15 be offered or provided by the deposition officer or by the entity
16 providing the services of the deposition officer to any party or any
17 party's attorney or third party who is financing all or part of the
18 action unless the service or product is offered or provided to all
19 parties or their attorneys attending the deposition. All services and
20 products offered or provided shall be made available at the same
21 time to all parties or their attorneys. The deposition officer or the
22 entity providing the services of the deposition officer shall not
23 provide to any party or any other person or entity any service or
24 product consisting of the deposition officer's notations or
25 comments regarding the demeanor of any witness, attorney, or
26 party present at the deposition. The deposition officer or the entity
27 providing the services of the deposition officer shall not collect
28 any personal identifying information about the witness as a service
29 or product to be provided to any party or third party who is
30 financing all or part of the action. Upon the request of any party
31 or any party's attorney attending a deposition, any party or any
32 party's attorney attending the deposition shall enter in the record
33 of the deposition all services and products made available to that
34 party or party's attorney or third party who is financing all or part
35 of the action by the deposition officer or by the entity providing the
36 services of the deposition officer. A party in the action who is not
37 represented by an attorney shall be informed by the noticing party
38 that the unrepresented party may request this statement.



1 (C) The operator shall not distort the appearance or the
2 demeanor of participants in the deposition by the use of camera or
3 sound recording techniques.

4 (D) The deposition shall begin with an oral or written statement
5 on camera or on the audiotape that includes the operator's name
6 and business address, the name and business address of the
7 operator's employer, the date, time, and place of the deposition,
8 the caption of the case, the name of the deponent, a specification
9 of the party on whose behalf the deposition is being taken, and any
10 stipulations by the parties.

11 (E) Counsel for the parties shall identify themselves on camera
12 or on the audiotape.

13 (F) The oath shall be administered to the deponent on camera
14 or on the audiotape.

15 (G) If the length of a deposition requires the use of more than
16 one unit of tape, the end of each unit and the beginning of each
17 succeeding unit shall be announced on camera or on the audiotape.

18 (H) At the conclusion of a deposition, a statement shall be made
19 on camera or on the audiotape that the deposition is ended and shall
20 set forth any stipulations made by counsel concerning the custody
21 of the audiotape or videotape recording and the exhibits, or
22 concerning other pertinent matters.

23 (I) A party intending to offer an audiotaped or videotaped
24 recording of a deposition in evidence under subdivision (u) shall
25 notify the court and all parties in writing of that intent and of the
26 parts of the deposition to be offered within sufficient time for
27 objections to be made and ruled on by the judge to whom the case
28 is assigned for trial or hearing, and for any editing of the tape.
29 Objections to all or part of the deposition shall be made in writing.
30 The court may permit further designations of testimony and
31 objections as justice may require. With respect to those portions of
32 an audiotaped or videotaped deposition that are not designated by
33 any party or that are ruled to be objectionable, the court may order
34 that the party offering the recording of the deposition at the trial
35 or hearing suppress those portions, or that an edited version of the
36 deposition tape be prepared for use at the trial or hearing. The
37 original audiotape or videotape of the deposition shall be
38 preserved unaltered. If no stenographic record of the deposition
39 testimony has previously been made, the party offering a
40 videotape or an audiotape recording of that testimony under



1 subdivision (u) shall accompany that offer with a stenographic
2 transcript prepared from that recording.

3 (3) In lieu of participating in the oral examination, parties may
4 transmit written questions in a sealed envelope to the party taking
5 the deposition for delivery to the deposition officer, who shall
6 unseal the envelope and propound them to the deponent after the
7 oral examination has been completed.

8 (m) (1) The protection of information from discovery on the
9 ground that it is privileged or that it is a protected work product
10 under Section 2018 is waived unless a specific objection to its
11 disclosure is timely made during the deposition.

12 (2) Errors and irregularities of any kind occurring at the oral
13 examination that might be cured if promptly presented are waived
14 unless a specific objection to them is timely made during the
15 deposition. These errors and irregularities include, but are not
16 limited to, those relating to the manner of taking the deposition, to
17 the oath or affirmation administered, to the conduct of a party,
18 attorney, deponent, or deposition officer, or to the form of any
19 question or answer. Unless the objecting party demands that the
20 taking of the deposition be suspended to permit a motion for a
21 protective order under subdivision (n), the deposition shall
22 proceed subject to the objection.

23 (3) Objections to the competency of the deponent, or to the
24 relevancy, materiality, or admissibility at trial of the testimony or
25 of the materials produced are unnecessary and are not waived by
26 failure to make them before or during the deposition.

27 (4) If a deponent fails to answer any question or to produce any
28 document or tangible thing under the deponent's control that is
29 specified in the deposition notice or a deposition subpoena, the
30 party seeking that answer or production may adjourn the
31 deposition or complete the examination on other matters without
32 waiving the right at a later time to move for an order compelling
33 that answer or production under subdivision (o).

34 (n) The deposition officer shall not suspend the taking of
35 testimony without stipulation of the party conducting the
36 deposition and the deponent unless any party attending the
37 deposition or the deponent demands the taking of testimony be
38 suspended to enable that party or deponent to move for a protective
39 order on the ground that the examination is being conducted in bad
40 faith or in a manner that unreasonably annoys, embarrasses, or



1 oppresses that deponent or party. This motion shall be
2 accompanied by a declaration stating facts showing a reasonable
3 and good faith attempt at an informal resolution of each issue
4 presented by the motion. The court, for good cause shown, may
5 terminate the examination or may limit the scope and manner of
6 taking the deposition as provided in subdivision (i). If the order
7 terminates the examination, the deposition shall not thereafter be
8 resumed, except on order of the court.

9 The court shall impose a monetary sanction under Section 2023
10 against any party, person, or attorney who unsuccessfully makes
11 or opposes a motion for this protective order, unless it finds that
12 the one subject to the sanction acted with substantial justification
13 or that other circumstances make the imposition of the sanction
14 unjust.

15 (o) If a deponent fails to answer any question or to produce any
16 document or tangible thing under the deponent's control that is
17 specified in the deposition notice or a deposition subpoena, the
18 party seeking discovery may move the court for an order
19 compelling that answer or production. This motion shall be made
20 no later than 60 days after the completion of the record of the
21 deposition, and shall be accompanied by a declaration stating facts
22 showing a reasonable and good faith attempt at an informal
23 resolution of each issue presented by the motion. Notice of this
24 motion shall be given to all parties, and to the deponent either
25 orally at the examination, or by subsequent service in writing. If
26 the notice of the motion is given orally, the deposition officer shall
27 direct the deponent to attend a session of the court at the time
28 specified in the notice. Not less than five days prior to the hearing
29 on this motion, the moving party shall lodge with the court a
30 certified copy of any parts of the stenographic transcript of the
31 deposition that are relevant to the motion. If a deposition is
32 recorded by audiotape or videotape, the moving party is required
33 to lodge a certified copy of a transcript of any parts of the
34 deposition that are relevant to the motion. If the court determines
35 that the answer or production sought is subject to discovery, it shall
36 order that the answer be given or the production be made on the
37 resumption of the deposition.

38 The court shall impose a monetary sanction under Section 2023
39 against any party, person, or attorney who unsuccessfully makes
40 or opposes a motion to compel answer or production, unless it



1 finds that the one subject to the sanction acted with substantial
2 justification or that other circumstances make the imposition of the
3 sanction unjust.

4 If a deponent fails to obey an order entered under this
5 subdivision, the failure may be considered a contempt of court. In
6 addition, if the disobedient deponent is a party to the action or an
7 officer, director, managing agent, or employee of a party, the court
8 may make those orders that are just against the disobedient party,
9 or against the party with whom the disobedient deponent is
10 affiliated, including the imposition of an issue sanction, an
11 evidence sanction, or a terminating sanction under Section 2023.
12 In lieu of, or in addition to, this sanction, the court may impose a
13 monetary sanction under Section 2023 against that party deponent
14 or against any party with whom the deponent is affiliated.

15 (p) Unless the parties agree otherwise, the testimony at any
16 deposition recorded by stenographic means shall be transcribed.
17 The party noticing the deposition shall bear the cost of that
18 transcription, unless the court, on motion and for good cause
19 shown, orders that the cost be borne or shared by another party.
20 Notwithstanding paragraph (2) of subdivision (k), any other party,
21 at that party's expense, may obtain a copy of the transcript. If the
22 deposition officer receives a request from a party for an original
23 or a copy of the deposition transcript, or any portion thereof, and
24 the document will be available to that party prior to the time the
25 original or copy would be available to any other party, the
26 deposition officer shall immediately notify all other parties
27 attending the deposition of the request, and shall, upon request by
28 any party other than the party making the original request, make
29 that copy of the full or partial deposition transcript available to all
30 parties at the same time. Stenographic notes of depositions shall
31 be retained by the reporter for a period of not less than eight years
32 from the date of the deposition, where no transcript is produced,
33 and not less than one year from the date on which the transcript is
34 produced. Those notes may be either on paper or electronic media,
35 as long as it allows for satisfactory production of a transcript at any
36 time during the periods specified. At the request of any other party
37 to the action, including a party who did not attend the taking of the
38 deposition testimony, any party who records or causes the
39 recording of that testimony by means of audiotape or videotape
40 shall promptly (1) permit that other party to hear the audiotape or



1 to view the videotape, and (2) furnish a copy of the audiotape or
2 videotape to that other party on receipt of payment of the
3 reasonable cost of making that copy of the tape.

4 *A deposition officer shall not be considered a party or a party*
5 *to an action for the purposes of this section. Any nonstenographic*
6 *technology, used during a deposition at the discretion of the*
7 *deposition officer for his or her convenience in creating a*
8 *deposition transcript, and all data recorded by means of this*
9 *technology, shall be the exclusive property of the deposition officer*
10 *and shall not be regarded as part of a deposition transcript. Any*
11 *video or audio recording of a deposition made by means of*
12 *nonstenographic technology at the discretion of, and for the*
13 *convenience of, a deposition officer shall not be considered an*
14 *audiotape or videotape required to be maintained by a deposition*
15 *officer, nor shall it be considered an audiotape or videotape made*
16 *by a party to the action.*

17 If the testimony at the deposition is recorded both
18 stenographically; and by audiotape or videotape, the stenographic
19 transcript is the official record of that testimony for the purpose of
20 the trial and any subsequent hearing or appeal.

21 *A videotape or audiotape recording, or any other recording*
22 *made using nonstenographic technology, made or used by a*
23 *deposition officer at his or her own discretion to assist in the*
24 *creation of a deposition transcript, may not be reproduced and may*
25 *not be used for any purpose other than to facilitate the deposition*
26 *officer in creating the deposition transcript. The nonstenographic*
27 *recording shall be destroyed or erased upon completion of the*
28 *official transcript unless otherwise required by law or court order.*
29 *If a nonstenographic recording is not destroyed or erased upon*
30 *completion of the official transcript, it shall be kept as provided in*
31 *Section 69955 of the Government Code.*

32 (q) (1) If the deposition testimony is stenographically
33 recorded, the deposition officer shall send written notice to the
34 deponent and to all parties attending the deposition when the
35 original transcript of the testimony for each session of the
36 deposition is available for reading, correcting, and signing, unless
37 the deponent and the attending parties agree on the record that the
38 reading, correcting, and signing of the transcript of the testimony
39 will be waived or that the reading, correcting, and signing of a
40 transcript of the testimony will take place after the entire



1 deposition has been concluded or at some other specific time. For
2 30 days following ~~each such~~ *receipt of the written* notice, unless
3 the attending parties and the deponent agree on the record or
4 otherwise in writing to a longer or shorter time period, the
5 deponent may change the form or the substance of the answer to
6 a question, and may either approve the transcript of the deposition
7 by signing it, or refuse to approve the transcript by not signing it.

8 Alternatively, within this same period, the deponent may
9 change the form or the substance of the answer to any question and
10 may approve or refuse to approve the transcript by means of a letter
11 to the deposition officer signed by the deponent which is mailed
12 by certified or registered mail with return receipt requested. A
13 copy of that letter shall be sent by first-class mail to all parties
14 attending the deposition. For good cause shown, the court may
15 shorten the 30-day period for making changes, approving, or
16 refusing to approve the transcript.

17 The deposition officer shall indicate on the original of the
18 transcript, if the deponent has not already done so at the office of
19 the deposition officer, any action taken by the deponent and
20 indicate on the original of the transcript, the deponent's approval
21 of, or failure or refusal to approve, the transcript. The deposition
22 officer shall also notify in writing the parties attending the
23 deposition of any changes which the deponent timely made in
24 person. If the deponent fails or refuses to approve the transcript
25 within the allotted period, the deposition shall be given the same
26 effect as though it had been approved, subject to any changes
27 timely made by the deponent. However, on a seasonable motion
28 to suppress the deposition, accompanied by a declaration stating
29 facts showing a reasonable and good faith attempt at an informal
30 resolution of each issue presented by the motion, the court may
31 determine that the reasons given for the failure or refusal to
32 approve the transcript require rejection of the deposition in whole
33 or in part.

34 The court shall impose a monetary sanction under Section 2023
35 against any party, person, or attorney who unsuccessfully makes
36 or opposes a motion to suppress a deposition, unless it finds that
37 the one subject to the sanction acted with substantial justification
38 or that other circumstances make the imposition of the sanction
39 unjust.



1 (2) If there is no stenographic transcription of the deposition,
2 the deposition officer shall send written notice to the deponent and
3 to all parties attending the deposition that the recording is available
4 for review, unless the deponent and all these parties agree on the
5 record to waive the hearing or viewing of an audiotape or
6 videotape recording of the testimony. For 30 days following this
7 notice the deponent, either in person or by signed letter to the
8 deposition officer, may change the substance of the answer to any
9 question.

10 The deposition officer shall set forth in a writing to accompany
11 the recording any changes made by the deponent, as well as either
12 the deponent's signature identifying the deposition as his or her
13 own, or a statement of the deponent's failure to supply the
14 signature, or to contact the officer within the allotted period. When
15 a deponent fails to contact the officer within the allotted period, or
16 expressly refuses by a signature to identify the deposition as his or
17 her own, the deposition shall be given the same effect as though
18 signed. However, on a reasonable motion to suppress the
19 deposition, accompanied by a declaration stating facts showing a
20 reasonable and good faith attempt at an informal resolution of each
21 issue presented by the motion, the court may determine that the
22 reasons given for the refusal to sign require rejection of the
23 deposition in whole or in part.

24 The court shall impose a monetary sanction under Section 2023
25 against any party, person, or attorney who unsuccessfully makes
26 or opposes a motion to suppress a deposition, unless it finds that
27 the one subject to the sanction acted with substantial justification
28 or that other circumstances make the imposition of the sanction
29 unjust.

30 (r) (1) The deposition officer shall certify on the transcript of
31 the deposition, or in a writing accompanying an audiotaped or
32 videotaped deposition as described in paragraph (2) of subdivision
33 (q), that the deponent was duly sworn and that the transcript or
34 recording is a true record of the testimony given.

35 (2) When prepared as a rough draft transcript, the transcript of
36 the deposition may not be certified and may not be used, cited, or
37 transcribed as the certified transcript of the deposition
38 proceedings. The rough draft transcript may not be cited or used
39 in any way or at any time to rebut or contradict the certified



1 transcript of deposition proceedings as provided by the deposition
2 officer.

3 (s) (1) The certified transcript of a deposition shall not be filed
4 with the court. Instead, the deposition officer shall securely seal
5 that transcript in an envelope or package endorsed with the title of
6 the action and marked: “Deposition of (here insert name of
7 deponent),” and shall promptly transmit it to the attorney for the
8 party who noticed the deposition. This attorney shall store it under
9 conditions that will protect it against loss, destruction, or
10 tampering.

11 The attorney to whom the transcript of a deposition is
12 transmitted shall retain custody of it until six months after final
13 disposition of the action. At that time, the transcript may be
14 destroyed, unless the court, on motion of any party and for good
15 cause shown, orders that the transcript be preserved for a longer
16 period.

17 (2) An audiotape or videotape record of deposition testimony,
18 including a certified tape made by an operator qualified under
19 subparagraph (B) of paragraph (2) of subdivision (l), shall not be
20 filed with the court. Instead, the operator shall retain custody of
21 that record and shall store it under conditions that will protect it
22 against loss, destruction, or tampering, and preserve as far as
23 practicable the quality of the tape and the integrity of the testimony
24 and images it contains.

25 At the request of any party to the action, including a party who
26 did not attend the taking of the deposition testimony, or at the
27 request of the deponent, that operator shall promptly (A) permit
28 the one making the request to hear or to view the tape on receipt
29 of payment of a reasonable charge for providing the facilities for
30 hearing or viewing the tape, and (B) furnish a copy of the audiotape
31 or ~~the~~ videotape recording to the one making the request on receipt
32 of payment of the reasonable cost of making that copy of the tape.

33 The attorney or operator who has custody of an audiotape or
34 videotape record of deposition testimony shall retain custody of it
35 until six months after final disposition of the action. At that time,
36 the audiotape or videotape may be destroyed or erased, unless the
37 court, on motion of any party and for good cause shown, orders
38 that the tape be preserved for a longer period.

39 (t) Once any party has taken the deposition of any natural
40 person, including that of a party to the action, neither the party who



1 gave, nor any other party who has been served with a deposition
2 notice pursuant to subdivision (c) may take a subsequent
3 deposition of that deponent. However, for good cause shown, the
4 court may grant leave to take a subsequent deposition, and the
5 parties, with the consent of any deponent who is not a party, may
6 stipulate that a subsequent deposition be taken. This subdivision
7 does not preclude taking one subsequent deposition of a natural
8 person who has previously been examined (1) as a result of that
9 person's designation to testify on behalf of an organization under
10 subdivision (d), or (2), pursuant to a court order under Section
11 485.230, for the limited purpose of discovering pursuant to
12 Section 485.230 the identity, location, and value of property in
13 which the deponent has an interest. This subdivision does not
14 authorize the taking of more than one subsequent deposition for
15 the limited purpose of Section 485.230.

16 (u) At the trial or any other hearing in the action, any part or all
17 of a deposition may be used against any party who was present or
18 represented at the taking of the deposition, or who had due notice
19 of the deposition and did not serve a valid objection under
20 subdivision (g), so far as admissible under the rules of evidence
21 applied as though the deponent were then present and testifying as
22 a witness, in accordance with the following provisions:

23 (1) Any party may use a deposition for the purpose of
24 contradicting or impeaching the testimony of the deponent as a
25 witness, or for any other purpose permitted by the Evidence Code.

26 (2) An adverse party may use for any purpose, a deposition of
27 a party to the action, or of anyone who at the time of taking the
28 deposition was an officer, director, managing agent, employee,
29 agent, or designee under subdivision (d) of a party. It is not ground
30 for objection to the use of a deposition of a party under this
31 paragraph by an adverse party that the deponent is available to
32 testify, has testified, or will testify at the trial or other hearing.

33 (3) Any party may use for any purpose the deposition of any
34 person or organization, including that of any party to the action,
35 if the court finds any of the following:

36 (A) The deponent resides more than 150 miles from the place
37 of the trial or other hearing.

38 (B) The deponent, without the procurement or wrongdoing of
39 the proponent of the deposition for the purpose of preventing
40 testimony in open court, is (i) exempted or precluded on the



1 ground of privilege from testifying concerning the matter to which
2 the deponent's testimony is relevant, (ii) disqualified from
3 testifying, (iii) dead or unable to attend or testify because of
4 existing physical or mental illness or infirmity, (iv) absent from the
5 trial or other hearing and the court is unable to compel the
6 deponent's attendance by its process, or (v) absent from the trial
7 or other hearing and the proponent of the deposition has exercised
8 reasonable diligence but has been unable to procure the deponent's
9 attendance by the court's process.

10 (C) Exceptional circumstances exist that make it desirable to
11 allow the use of any deposition in the interests of justice and with
12 due regard to the importance of presenting the testimony of
13 witnesses orally in open court.

14 (4) Any party may use a videotape deposition of a treating or
15 consulting physician or of any expert witness even though the
16 deponent is available to testify if the deposition notice under
17 subdivision (d) reserved the right to use the deposition at trial, and
18 if that party has complied with subparagraph (I) of paragraph (2)
19 of subdivision (l).

20 (5) Subject to the requirements of this section, a party may offer
21 in evidence all or any part of a deposition, and if the party
22 introduces only part of the deposition, any other party may
23 introduce any other parts that are relevant to the parts introduced.

24 (6) Substitution of parties does not affect the right to use
25 depositions previously taken.

26 (7) When an action has been brought in any court of the United
27 States or of any state, and another action involving the same
28 subject matter is subsequently brought between the same parties
29 or their representatives or successors in interest, all depositions
30 lawfully taken and duly filed in the initial action may be used in
31 the subsequent action as if originally taken in that subsequent
32 action. A deposition previously taken may also be used as
33 permitted by the Evidence Code.

34 (v) Violation of subdivision (k) by any person may result in a
35 civil penalty of up to five thousand dollars (\$5,000) imposed by a
36 court of competent jurisdiction.

37 SEC. 10. Section 2026 of the Code of Civil Procedure is
38 amended to read:

39 2026. (a) Any party may obtain discovery by taking an oral
40 deposition, as described in subdivision (a) of Section 2025, in



1 another state of the United States, or in a territory or an insular
2 possession subject to its jurisdiction. Except as modified in this
3 section, the procedures for taking oral depositions in California set
4 forth in Section 2025 apply to an oral deposition taken in another
5 state of the United States, or in a territory or an insular possession
6 subject to its jurisdiction.

7 (b) (1) If a deponent is a party to the action or an officer,
8 director, managing agent, or employee of a party, the service of the
9 deposition notice is effective to compel that deponent to attend and
10 to testify, as well as to produce any document or tangible thing for
11 inspection and copying. The deposition notice shall specify a place
12 in the state, territory, or insular possession of the United States that
13 is within 75 miles of the residence or a business office of a
14 deponent.

15 (2) If the deponent is not a party to the action or an officer,
16 director, managing agent, or employee of a party, a party serving
17 a deposition notice under this section shall use any process and
18 procedures required and available under the laws of the state,
19 territory, or insular possession where the deposition is to be taken
20 to compel the deponent to attend and to testify, as well as to
21 produce any document or tangible thing for inspection, copying,
22 and any related activity.

23 (c) A deposition taken under this section shall be conducted (1)
24 under the supervision of a person who is authorized to administer
25 oaths by the laws of the United States or those of the place where
26 the examination is to be held, and who is not otherwise disqualified
27 under subdivision (k) and subparagraph (B) of paragraph (2) of
28 subdivision (l) of Section 2025, or (2) before a person appointed
29 by the court. This appointment is effective to authorize that person
30 to administer oaths and to take testimony. On request, the clerk of
31 the court shall issue a commission authorizing the deposition in
32 another state or place. The commission shall request that process
33 issue in the place where the examination is to be held, requiring
34 attendance and enforcing the obligations of the deponents to
35 produce documents and answer questions. The commission shall
36 be issued by the clerk to any party in any action pending in its
37 venue without a noticed motion or court order. The commission
38 may contain such terms as are required by the foreign jurisdiction
39 to initiate the process. If a court order is required by the foreign



1 jurisdiction, an order for a commission may be obtained by ex
2 parte application.

3 SEC. 11. Section 2033.5 of the Code of Civil Procedure is
4 amended to read:

5 2033.5. (a) The Judicial Council shall develop and approve
6 official form interrogatories and requests for admission of the
7 genuineness of any relevant documents or of the truth of any
8 relevant matters of fact for use in any civil action in a state court
9 based on personal injury, property damage, wrongful death,
10 unlawful detainer, breach of contract, family law, or fraud and for
11 any other civil actions the Judicial Council deems appropriate. Use
12 of the approved form interrogatories and requests for admission
13 shall be optional.

14 (b) In developing the form interrogatories and requests for
15 admission required by this section, the Judicial Council shall
16 consult with a representative advisory committee which shall
17 include, but not be limited to, representatives of the plaintiff’s bar,
18 the defense bar, the public interest bar, court administrators, and
19 the public. The form interrogatories and requests for admission
20 shall be drafted in nontechnical language and shall be made
21 available through the office of the clerk of the appropriate trial
22 court.

23 (c) The Judicial Council also shall promulgate any necessary
24 rules to govern the use of the form interrogatories and requests for
25 admission.

26 (d) The Judicial Council shall develop and approve official
27 form interrogatories for use by a victim who has not received
28 complete payment of a restitution order made pursuant to Section
29 1202.4 of the Penal Code.

30 (e) Notwithstanding whether a victim initiates or maintains an
31 action to satisfy the unpaid restitution order, a victim may
32 propound the form interrogatories approved pursuant to this
33 section once each calendar year. The defendant subject to the
34 restitution order shall, in responding to the interrogatories
35 propounded, provide current information regarding the nature,
36 extent, and location of any assets, income, and liabilities in which
37 the defendant claims a present or future interest.

38 (f) This section shall become operative on January 1, 2000.

39 SEC. 12. Section 2093 of the Code of Civil Procedure is
40 amended to read:



1 2093. (a) Every court, every judge, or clerk of any court,
2 every justice, and every notary public, and every officer or person
3 authorized to take testimony in any action or proceeding, or to
4 decide upon evidence, has the power to administer oaths or
5 affirmations.

6 (b) (1) Every shorthand reporter certified pursuant to Article
7 3 (commencing with Section 8020) of Chapter 13 of Division 3 of
8 the Business and Professions Code has the power to administer
9 oaths or affirmations and may perform the duties of the deposition
10 officer pursuant to Section 2025. The certified shorthand reporter
11 shall be entitled to receive fees for services rendered during a
12 deposition, including fees for deposition services, as specified in
13 subdivision (c) of Section 8211 of the Government Code.

14 (2) This subdivision shall also apply to depositions taken by
15 telephone or other remote electronic means as specified in
16 Sections 2017 and 2025.

17 (c) A former judge or justice of a court of record in this state
18 who retired or resigned from office, other than a judge or justice
19 who was retired by the Supreme Court for disability, shall have the
20 power to administer oaths or affirmations, if the former judge or
21 justice requests and receives a certification from the Commission
22 on Judicial Performance that there was no formal disciplinary
23 proceeding pending at the time of retirement or resignation. Where
24 no formal disciplinary proceeding was pending at the time of
25 retirement or resignation, the Commission on Judicial
26 Performance shall issue the certification.

27 No law, rule, or regulation regarding the confidentiality of
28 proceedings of the Commission on Judicial Performance shall be
29 construed to prohibit the Commission on Judicial Performance
30 from issuing a certificate as provided for in this section.

31 SEC. 13. Section 915 of the Evidence Code is amended to
32 read:

33 915. (a) Subject to subdivision (b), the presiding officer may
34 not require disclosure of information claimed to be privileged
35 under this division or attorney work product under subdivision (c)
36 of Section 2018 of the Code of Civil Procedure in order to rule on
37 the claim of privilege; provided, however, that in any hearing
38 conducted pursuant to subdivision (c) of Section 1524 of the Penal
39 Code in which a claim of privilege is made and the court
40 determines that there is no other feasible means to rule on the



1 validity of the claim other than to require disclosure, the court shall
2 proceed in accordance with subdivision (b).

3 (b) When a court is ruling on a claim of privilege under Article
4 9 (commencing with Section 1040) of Chapter 4 (official
5 information and identity of informer) or under Section 1060 (trade
6 secret) or under subdivision (b) of Section 2018 of the Code of
7 Civil Procedure (attorney work product) and is unable to do so
8 without requiring disclosure of the information claimed to be
9 privileged, the court may require the person from whom disclosure
10 is sought or the person authorized to claim the privilege, or both,
11 to disclose the information in chambers out of the presence and
12 hearing of all persons except the person authorized to claim the
13 privilege and any other persons as the person authorized to claim
14 the privilege is willing to have present. If the judge determines that
15 the information is privileged, neither the judge nor any other
16 person may ever disclose, without the consent of a person
17 authorized to permit disclosure, what was disclosed in the course
18 of the proceedings in chambers.

19 SEC. 14. Section 68113 of the Government Code is repealed.

20 SEC. 15. Section 68502.5 of the Government Code is
21 amended to read:

22 68502.5. (a) The Judicial Council may, as part of its trial
23 court budget process, seek input from groups and individuals as it
24 deems appropriate including, but not limited to, advisory
25 committees and the Administrative Director of the Courts. The
26 trial court budget process may include, but is not limited to, the
27 following:

- 28 (1) The receipt of budget requests from the trial courts.
- 29 (2) The review of the trial courts' budget requests and evaluate
30 them against performance criteria established by the Judicial
31 Council by which a court's performance, level of coordination,
32 and efficiency can be measured.
- 33 (3) The annual adoption of the projected cost in the subsequent
34 fiscal year of court operations as defined in Section 77003 for each
35 trial court. This estimation shall serve as a basis for recommended
36 court budgets, which shall be developed for comparison purposes
37 and to delineate funding responsibilities.
- 38 (4) The annual approval of a schedule for the allocation of
39 moneys to individual courts and an overall trial court budget for
40 forwarding to the Governor for inclusion in the Governor's



1 proposed State Budget. The schedule shall be based on the
2 performance criteria established pursuant to paragraph (2), on a
3 minimum standard established by the Judicial Council for the
4 operation and staffing of all trial court operations, and on any other
5 factors as determined by the Judicial Council. This minimum
6 standard shall be modeled on court operations using all reasonable
7 and available measures to increase court efficiency. The schedule
8 of allocations shall assure that all trial courts receive funding for
9 the minimum operating and staffing standards before funding
10 operating and staffing requests above the minimum standards, and
11 shall include incentives and rewards for any trial court's
12 implementation of efficiencies and cost saving measures.

13 (5) The reallocation of funds during the course of the fiscal year
14 to ensure equal access to the trial courts by the public, to improve
15 trial court operations, and to meet trial court emergencies. Neither
16 the state nor the counties shall have any obligation to replace
17 moneys appropriated for trial courts and reallocated pursuant to
18 this paragraph.

19 (6) The allocation of funds in the Trial Court Improvement
20 Fund to ensure equal access to trial courts by the public, to improve
21 trial court operations, and to meet trial court emergencies.

22 (7) Upon approval of the trial courts' budget by the Legislature,
23 the preparation during the course of the fiscal year of allocation
24 schedules for payments to the trial courts, consistent with Section
25 68085, which shall be submitted to the Controller's office by the
26 10th day of the month in which payments are to be made.

27 (8) The establishment of rules regarding a court's authority to
28 transfer trial court funding moneys from one functional category
29 to another in order to address needs in any functional category.

30 (9) At the request of the presiding judge of a trial court, an
31 independent review of the funding level of the court to determine
32 whether it is adequate to enable the court to discharge its statutory
33 and constitutional responsibilities.

34 (10) From time to time, a review of the level of fees charged by
35 the courts for various services and prepare recommended
36 adjustments for forwarding to the Legislature.

37 (11) Provisions set forth in rules adopted pursuant to Section
38 77206 of the Government Code.

39 (b) Courts and counties shall establish procedures to allow for
40 the sharing of information as it relates to approved budget



1 proposals and expenditures that impact the respective court and
2 county budgets. The procedures shall include, upon the request of
3 a court or county, that a respective court or county shall provide
4 the requesting court or county a copy of its approved budget and,
5 to the extent possible, approved program expenditure component
6 information and a description of budget changes that are
7 anticipated to have an impact on the requesting court or county.
8 The Judicial Council shall provide to the Legislature on December
9 31, 2001, and yearly thereafter, budget expenditure data at the
10 program component level for each court.

11 (c) The Judicial Council shall retain the ultimate responsibility
12 to adopt a budget and allocate funding for the trial courts and
13 perform the other activities listed in subdivision (a) that best assure
14 their ability to carry out their functions, promote implementation
15 of statewide policies, and promote the immediate implementation
16 of efficiencies and cost savings measures in court operations, in
17 order to guarantee equal access to the courts.

18 SEC. 16. Section 68511.3 of the Government Code is
19 amended to read:

20 68511.3. (a) The Judicial Council shall formulate and adopt
21 uniform forms and rules of court for litigants proceeding in forma
22 pauperis. These rules shall provide for all of the following:

23 (1) Standard procedures for considering and determining
24 applications for permission to proceed in forma pauperis,
25 including, in the event of a denial of permission, a written
26 statement detailing the reasons for denial and an evidentiary
27 hearing where there is a substantial evidentiary conflict.

28 (2) Standard procedures to toll relevant time limitations when
29 a pleading or other paper accompanied by the application is timely
30 lodged with the court and delay is caused due to the processing of
31 the application to proceed in forma pauperis.

32 (3) Proceeding in forma pauperis at every stage of the
33 proceedings at both the appellate and trial levels of the court
34 system.

35 (4) The confidentiality of the financial information provided to
36 the court by these litigants.

37 (5) That the court may authorize the clerk of the court, county
38 financial officer, or other appropriate county officer to make
39 reasonable efforts to verify the litigant's financial condition
40 without compromising the confidentiality of the application.



1 (6) That permission to proceed in forma pauperis be granted to
2 all of the following:

3 (A) Litigants who are receiving benefits pursuant to the
4 Supplemental Security Income (SSI) and State Supplemental
5 Payments (SSP) programs (Sections 12200 to 12205, inclusive, of
6 the Welfare and Institutions Code), the California Work
7 Opportunity and Responsibility to Kids Act (CalWORKs)
8 program (Chapter 2 (commencing with Section 11200) of Part 3
9 of Division 9 of the Welfare and Institutions Code), the Food
10 Stamp program (7 U.S.C. Sec. 2011 et seq.), or Section 17000 of
11 the Welfare and Institutions Code.

12 (B) Litigants whose monthly income is 125 percent or less of
13 the current monthly poverty line annually established by the
14 Secretary of Health and Human Services pursuant to the Omnibus
15 Budget Reconciliation Act of 1981, as amended.

16 (C) Other persons when in the court's discretion, this
17 permission is appropriate because the litigant is unable to proceed
18 without using money which is necessary for the use of the litigant
19 or the litigant's family to provide for the common necessities of
20 life.

21 (b) (1) Litigants who apply for permission to proceed in forma
22 pauperis pursuant to subparagraph (A) of paragraph (6) of
23 subdivision (a) shall declare under penalty of perjury that they are
24 receiving the benefits and may voluntarily provide the court with
25 their date of birth and social security number or their Medi-Cal
26 identification number to permit the court to verify the applicant's
27 receipt of public assistance. The court may require any applicant,
28 except a defendant in an unlawful detainer action, who chooses not
29 to disclose his or her social security number for verification
30 purposes to attach to the application documentation of benefits to
31 support the claim and all other financial information on a form
32 promulgated by the Judicial Council for this purpose.

33 (2) Litigants who apply for permission to proceed in forma
34 pauperis pursuant to subparagraph (B) or (C) of paragraph (6) of
35 subdivision (a) shall file a financial statement under oath on a form
36 promulgated by, and pursuant to rules adopted by, the Judicial
37 Council.

38 (c) The forms and rules adopted by the Judicial Council shall
39 provide for the disclosure of the following information about the
40 litigant:



- 1 (1) Current street address.
- 2 (2) Occupation and employer.
- 3 (3) Monthly income and expenses.
- 4 (4) Address and value of any real property owned directly or
- 5 beneficially.
- 6 (5) Personal property with a value that exceeds five hundred
- 7 dollars (\$500).

8 The information furnished by the litigant shall be used by the
9 court in determining his or her ability to pay all or a portion of the
10 fees and costs.

11 (d) At any time after the court has granted a litigant permission
12 to proceed in forma pauperis and prior to final disposition of the
13 case, the clerk of the court, county financial officer, or other
14 appropriate county officer may notify the court of any changed
15 financial circumstances which may enable the litigant to pay all or
16 a portion of the fees and costs which had been waived. The court
17 may authorize the clerk of the court, county financial officer, or
18 other appropriate county officer to require the litigant to appear
19 before and be examined by the person authorized to ascertain the
20 validity of their indigent status. However, no litigant shall be
21 required to appear more than once in any four-month period. A
22 litigant proceeding in forma pauperis shall notify the court within
23 five days of any settlement or monetary consideration received in
24 settlement of this litigation and of any other change in financial
25 circumstances that affects the litigant's ability to pay court fees and
26 costs. After the litigant either (1) appears before and is examined
27 by the person authorized to ascertain the validity of his or her
28 indigent status or (2) notifies the court of a change in financial
29 circumstances, the court may then order the litigant to pay to the
30 county the sum and in any manner the court believes is compatible
31 with the litigant's financial ability.

32 In any action or proceeding in which the litigant whose fees and
33 costs have been waived would have been entitled to recover those
34 fees and costs from another party to the action or proceeding had
35 they been paid, the court may assess the amount of the waived fees
36 and costs against the other party and order the other party to pay
37 that sum to the county or to the clerk and serving and levying
38 officers respectively, or the court may order the amount of the
39 waived fees and costs added to the judgment and so identified by
40 the clerk.



1 Execution may be issued on any order provided for in this
2 subdivision in the same manner as on a judgment in a civil action.
3 When an amount equal to the sum due and payable to the clerk has
4 been collected upon the judgment, these amounts shall be remitted
5 to the clerk within 30 days. Thereafter, when an amount equal to
6 the sum due to the serving and levying officers has been collected
7 upon the judgment, these amounts shall be due and payable to
8 those officers and shall be remitted within 30 days. If the
9 remittance is not received by the clerk within 30 days or there is
10 a filing of a partial satisfaction of judgment in an amount at least
11 equal to the fees and costs payable to the clerk or a satisfaction of
12 judgment has been filed, notwithstanding any other provision of
13 law, the court may issue an abstract of judgment, writ of execution,
14 or both for recovery of those sums, plus the fees for issuance and
15 execution and an additional fee for administering this section. The
16 county board of supervisors shall establish a fee, not to exceed
17 actual costs of administering this subdivision and in no case
18 exceeding twenty-five dollars (\$25), which shall be added to the
19 writ of execution.

20 (e) Notwithstanding subdivision (a), a person who is sentenced
21 to imprisonment in a state prison or confined in a county jail and,
22 during the period of imprisonment or confinement, files a civil
23 action or notice of appeal of a civil action in forma pauperis shall
24 be required to pay the full amount of the filing fee to the extent
25 provided in this subdivision.

26 (1) In addition to the form required by this section for filing in
27 forma pauperis, an inmate shall file a copy of a statement of
28 account for any sums due to the inmate for the six-month period
29 immediately preceding the filing of the civil action or notice of
30 appeal of a civil action. This copy shall be certified by the
31 appropriate official of the Department of Corrections or a county
32 jail.

33 (2) Upon filing the civil action or notice of appeal of a civil
34 action, the court shall assess, and when funds exist, collect, as a
35 partial payment of any required court fees, an initial partial filing
36 fee of 20 percent of the greater of one of the following:

37 (A) The average monthly deposits to the inmate's account.

38 (B) The average monthly balance in the inmate's account for
39 the six-month period immediately preceding the filing of the civil
40 action or notice of appeal.



1 (3) After payment of the initial partial filing fee, the inmate
2 shall be required to make monthly payments of 20 percent of the
3 preceding month's income credited to the inmate's account. The
4 Department of Corrections shall forward payments from this
5 account to the clerk of the court each time the amount in the
6 account exceeds ten dollars (\$10) until the filing fees are paid.

7 (4) In no event shall the filing fee collected pursuant to this
8 subdivision exceed the amount of fees permitted by law for the
9 commencement of a civil action or an appeal of a civil action.

10 (5) In no event shall an inmate be prohibited from bringing a
11 civil action or appeal of a civil action solely because the inmate has
12 no assets and no means to pay the initial partial filing fee.

13 SEC. 17. Section 71629 of the Government Code is amended
14 to read:

15 71629. Except as provided in Sections 71624, 71625, 71626,
16 71626.5, 71627, and 71628, and notwithstanding any other
17 provision of law:

18 (a) As provided in Section 71612, the implementation of this
19 chapter shall not be a cause for the modification of the level of trial
20 court employment benefits. If the same trial court employment
21 benefits are not permitted by law or the plan vendor, the trial court
22 shall provide other trial court employment benefits at the same
23 level subject to the provisions of subdivision (b). The level of trial
24 court employment benefits provided to a trial court employee as
25 of the implementation date of this chapter shall remain in effect
26 unless modified pursuant to subdivision (b).

27 (b) For employees who are represented by a recognized
28 employee organization, the level of trial court employment
29 benefits provided to a trial court employee may not be modified
30 until after the expiration of an existing memorandum of
31 understanding or agreement or a period of 24 months, whichever
32 is longer, unless the trial court and recognized employee
33 organization mutually agree to a modification. For employees who
34 are not represented by a recognized employee organization, the
35 level of trial court employment benefits may be revised by the trial
36 court.

37 (c) The trial court shall reimburse the county for the cost of
38 coverage of trial court employees in trial court employment
39 benefit plans. If the county administers trial court employment
40 benefits to trial court employees, or if the trial court contracts with



1 the county *to* administer trial court employment benefits to trial
2 court employees, a trial court employee shall be eligible to
3 participate in trial court employment benefits subject to trial court
4 employment benefit regulations, policies, terms and conditions,
5 and subject to both of the following:

6 (1) A trial court employee shall have the right to receive the
7 same level of trial court employment benefits as county employees
8 in similar classifications, as designated by the trial court subject to
9 the obligation to meet and confer in good faith, without the
10 opportunity to meet and confer with the county as to those benefits.

11 (2) The level of trial court employment benefits accruing to a
12 trial court employee is subject to modification by the county if the
13 county changes the level of the same employment benefits
14 accruing to county employees in classifications that have been
15 designated as similar classification pursuant to paragraph (1).

16 (d) As of the implementation date of this chapter:

17 (1) If the trial court administers trial court employment benefits
18 to trial court employees separately from the county, the trial court
19 shall continue to administer these benefits as provided under
20 existing personnel policies, procedures, plans, or trial court
21 employee memoranda of understanding or agreements.

22 (2) If the county administers trial court employment benefits to
23 trial court employees or if the trial court contracts with the county
24 to administer trial court employment benefits to trial court
25 employees, the county may continue to administer trial court
26 employment benefits to trial court employees pursuant to
27 subdivision (e) or the trial court may administer trial court
28 employment benefits to trial court employees pursuant to the
29 following transition process:

30 (A) While an existing memorandum of understanding or
31 agreement remains in effect or for a transition period of 24 months,
32 whichever is longer, the county shall administer trial court
33 employment benefits for represented trial court employees as
34 provided in the applicable memorandum of understanding or
35 agreement, unless the county is notified by the trial court pursuant
36 to subparagraph (D) that the trial court no longer needs the county
37 to administer specified benefits, or the trial court and the county
38 mutually agree that the county will no longer administer specified
39 benefits.



1 (B) For a transition period of up to 24 months after the
2 implementation date of this chapter, the county shall administer
3 trial court employment benefits for unrepresented trial court
4 employees, unless notified by the trial court pursuant to
5 subparagraph (D) that the trial court no longer needs the county to
6 administer specified benefits, or the trial court and the county
7 mutually agree that the county will no longer administer specified
8 benefits. During the transition period, if the county intends to
9 change unrepresented trial court employees' trial court
10 employment benefits, the county shall provide the trial court with
11 at least 60 days' notice, or a mutually agreed to amount of notice,
12 before any change in benefits is implemented so the trial court can
13 decide whether to accept the county's change or consider
14 alternatives and arrange to provide benefits on its own.

15 (C) If, during the transition period, the trial court decides to
16 offer particular trial court employment benefits that are different
17 from what the county is administering, the trial court shall be
18 responsible for administering those particular benefits.

19 (D) If the trial court decides that it no longer needs the county
20 to administer specified trial court employment benefits to trial
21 court employees, the trial court shall provide the county with at
22 least 60 days' notice, or a mutually agreed to amount of notice.

23 (e) To facilitate trial court employee participation in county
24 trial court employment benefit plans, the trial court and county
25 may mutually agree that the county shall administer the payroll for
26 trial court employees.

27 (f) A county shall have authority to provide trial court
28 employment benefits to trial court employees if those benefits are
29 requested by the trial court and subject to county concurrence to
30 providing those benefits. A county's agreement to provide those
31 benefits shall not be construed to create a meet and confer
32 obligation between the county and any recognized employee
33 organization.

34 (g) Nothing in this section shall prevent the trial court from
35 arranging for trial court employees other trial court employment
36 benefits plans subject to the obligation to meet and confer in good
37 faith.

38 SEC. 18. Section 72055 of the Government Code is amended
39 to read:



1 72055. (a) The total fee for filing of the first paper in a limited
2 civil case shall be ninety dollars (\$90), except that in a case where
3 the amount demanded, excluding attorney’s fees and costs, is ten
4 thousand dollars (\$10,000) or less, the fee shall be eighty-three
5 dollars (\$83). The first page of the first paper shall state whether
6 the amount demanded exceeds or does not exceed ten thousand
7 dollars (\$10,000).

8 (b) This section applies to the initial complaint, petition, or
9 application, and any papers transmitted from another court on the
10 transfer of a civil action or proceeding, but does not include
11 documents filed pursuant to Section 491.150, 704.750, or 708.160
12 of the Code of Civil Procedure.

13 (c) The term “total fee” as used in this section and Section
14 72056 includes any amount allocated to the Judges’ Retirement
15 Fund pursuant to Section 72056.1, any automation fee imposed
16 pursuant to Section 68090.7, any construction fee imposed
17 pursuant to Section 76238, and the law library fee established
18 pursuant to Article 2 (commencing with Section 6320) of Chapter
19 5 of Division 3 of the Business and Professions Code. The term
20 “total fee” as used in this section and Section 72056 also includes
21 any dispute resolution fee imposed pursuant to Section 470.3 of
22 the Business and Professions Code, but the Judicial Council may
23 authorize any trial court to exclude any portion of this dispute
24 resolution fee from the term “total fee.”

25 (d) The fee shall be waived in any action for damages against
26 a defendant, based upon the defendant’s commission of a felony
27 offense, upon presentation to the clerk of the court of a certified
28 copy of the abstract of judgment of conviction of the defendant of
29 the felony giving rise to the claim for damages. If the plaintiff
30 would have been entitled to recover those fees from the defendant
31 had they been paid, the court may assess the amount of the waived
32 fees against the defendant and order the defendant to pay that sum
33 to the county.

34 SEC. 19. Section 77001 of the Government Code is amended
35 to read:

36 77001. The Judicial Council shall adopt rules which establish
37 a decentralized system of trial court management. These rules
38 shall ensure:

39 (a) Local authority and responsibility of trial courts to manage
40 day-to-day operations.



1 (b) Countywide administration of the trial courts.

2 (c) The authority and responsibility of trial courts to manage all
3 of the following, consistent with statute, rules of court, and
4 standards of judicial administration:

5 (1) Annual allocation of funding, including policies and
6 procedures about moving funding between functions or line items
7 or programs.

8 (2) Local personnel plans, including the promulgation of
9 personnel policies.

10 (3) Processes and procedures to improve court operations and
11 responsiveness to the public.

12 (4) The trial courts of each county shall establish the means of
13 selecting presiding judges, assistant presiding judges, executive
14 officers or court administrators, clerks of court, and jury
15 commissioners.

16 (d) Trial court input into the Judicial Council budget process.

17 (e) Equal access to justice throughout California utilizing
18 standard practices and procedures whenever feasible.

19 SEC. 20. Section 77003 of the Government Code is amended
20 to read:

21 77003. (a) As used in this chapter, “court operations” means
22 all of the following:

23 (1) Salaries, benefits, and public agency retirement
24 contributions for superior and municipal court judges and for
25 subordinate judicial officers. For purposes of this paragraph,
26 “subordinate judicial officers” includes all commissioner or
27 referee positions created prior to July 1, 1997, including positions
28 created in the municipal court prior to July 1, 1997, which
29 thereafter became positions in the superior court as a result of
30 unification of the municipal and superior courts in a county, and
31 including those commissioner positions created pursuant to
32 Sections 69904, 70141, 70141.9, 70142.11, 72607, 73794,
33 74841.5, and 74908; and includes any staff who provide direct
34 support to commissioners; but does not include commissioners or
35 staff who provide direct support to the commissioners whose
36 positions were created after July 1, 1997, unless approved by the
37 Judicial Council, subject to availability of funding.

38 (2) The salary, benefits, and public agency retirement
39 contributions for other court staff including all municipal court
40 staff positions specifically prescribed by statute.



1 (3) Those marshals and sheriffs as the court deems necessary
2 for court operations.

3 (4) Court-appointed counsel in juvenile court dependency
4 proceedings and counsel appointed by the court to represent a
5 minor pursuant to Chapter 10 (commencing with Section 3150) of
6 Part 2 of Division 8 of the Family Code.

7 (5) Services and supplies relating to court operations.

8 (6) Collective bargaining under Sections 71630 and 71639.3
9 with respect to court employees.

10 (7) Subject to paragraph (1) of subdivision (d) of Section
11 77212, actual indirect costs for county and city and county general
12 services attributable to court operations, but specifically
13 excluding, but not limited to, law library operations conducted by
14 a trust pursuant to statute; courthouse construction; district
15 attorney services; probation services; indigent criminal defense;
16 grand jury expenses and operations; and pretrial release services.

17 (b) However, “court operations” does not include collection
18 enhancements as defined in Rule 810 of the California Rules of
19 Court as it read on July 1, 1996.

20 *SEC. 20.5. Section 77003 of the Government Code is*
21 *amended to read:*

22 77003. (a) As used in this chapter, “court operations” means
23 all of the following:

24 (1) Salaries, benefits, and public agency retirement
25 contributions for superior and municipal court judges and for
26 subordinate judicial officers. For purposes of this paragraph,
27 “subordinate judicial officers” includes all commissioner or
28 referee positions created prior to July 1, 1997, including positions
29 created in the municipal court prior to July 1, 1997, which
30 thereafter became positions in the superior court as a result of
31 unification of the municipal and superior courts in a county, and
32 including those commissioner positions created pursuant to
33 Sections 69904, 70141, 70141.9, 70142.11, 72607, 73794,
34 74841.5, and 74908; and includes any staff who provide direct
35 support to commissioners; but does not include commissioners or
36 staff who provide direct support to the commissioners whose
37 positions were created after July 1, 1997, unless approved by the
38 Judicial Council, subject to availability of funding.



1 (2) The salary, benefits, and public agency retirement
2 contributions for other court staff including all municipal court
3 staff positions specifically prescribed by statute.

4 (3) Those marshals and sheriffs as the court deems necessary
5 for court operations.

6 (4) Court-appointed counsel in juvenile court dependency
7 proceedings and counsel appointed by the court to represent a
8 minor pursuant to Chapter 10 (commencing with Section 3150) of
9 Part 2 of Division 8 of the Family Code.

10 (5) Services and supplies relating to court operations.

11 (6) Collective bargaining under ~~the Meyers-Milias-Brown Act~~
12 ~~or Sections 2201 to 2210, inclusive, of the California Rules of~~
13 ~~Court Sections 71630 and 71639.3 with respect to court employees~~
14 ~~specified in Section 3501.5.~~

15 (7) ~~Actual~~ *Subject to paragraph (1) of subdivision (d) of*
16 *Section 77212, actual* indirect costs for county and city and county
17 general services attributable to court operations, but specifically
18 excluding, but not limited to, law library operations conducted by
19 a trust pursuant to statute; courthouse construction; district
20 attorney services; probation services; indigent criminal defense;
21 grand jury expenses and operations; and pretrial release services.

22 (8) *Except as provided in subdivision (b), other matters listed*
23 *as court operations in Rule 810 of the California Rules of Court*
24 *as it read on July 1, 1996.*

25 (b) However, “court operations” does not include collection
26 enhancements as defined in Rule 810 of the California Rules of
27 Court as it read on July 1, 1996.

28 SEC. 21. Section 77009 of the Government Code is amended
29 to read:

30 77009. (a) For the purposes of funding trial court operations,
31 each board of supervisors shall establish in the county treasury a
32 Trial Court Operations Fund, which will operate as an agency
33 fund. All funds appropriated in the Budget Act and allocated and
34 reallocated to each court in the county by the Judicial Council shall
35 be deposited into the fund. Accounts shall be established in the
36 Trial Court Operations Fund for each trial court in the county,
37 except that one account may be established for courts which have
38 a unified budget. In a county where court budgets include
39 appropriations for expenditures administered on a countywide
40 basis, including, but not limited to, court security, centralized



1 data-processing and planning and research services, an account for
2 each centralized service shall be established and funded from those
3 appropriations.

4 (b) The moneys of the Trial Court Operations Fund arising
5 from deposits of funds appropriated in the Budget Act and
6 allocated or reallocated to each court in the county by the Judicial
7 Council shall be payable only for the purposes set forth in Sections
8 77003 and 77006.5, and for services purchased by the court
9 pursuant to subdivisions (b) and (c) of Section 77212. The
10 presiding judge of each court in a county, or his or her designee,
11 shall authorize and direct expenditures from the fund and the
12 county auditor-controller shall make payments from the funds as
13 directed. Approval of the board of supervisors is not required for
14 expenditure from this fund.

15 (c) All funds received by a trial court from any source shall be
16 deposited in the trial court operations fund, except as provided in
17 this section. Funds that are received to fulfill the requirements of
18 Article 4 (commencing with Section 4250) of Chapter 2 of Part 2
19 of Division 9 and Division 14 (commencing with Section 10000)
20 of the Family Code shall be identified and maintained in a separate
21 account established in the fund for this purpose. All other funds
22 that are received for purposes other than court operations, as
23 defined in Section 77003 and Rule 810 of the California Rules of
24 Court, shall be identified and maintained in one or more separate
25 accounts established in the fund pursuant to procedures adopted by
26 the Judicial Council. This subdivision shall only apply to funds
27 received by the courts for operating and program purposes. This
28 subdivision shall not apply to either of the following:

29 (1) Funds received by the courts pursuant to Section 68084, if
30 those funds are not for operating or program use.

31 (2) Payments from a party or a defendant received by a trial
32 court or the county for any fees, fines, or forfeitures.

33 (d) Interest received by a county which is attributable to
34 investment of money required by this section to be deposited in its
35 Trial Court Operations Fund shall be deposited in the fund and
36 shall be used for trial court operations purposes.

37 (e) In no event shall interest be charged to the Trial Court
38 Operations Fund, except as provided in Section 77009.1.

39 (f) Reasonable administrative expenses incurred by the county
40 associated with the operation of this fund shall be charged to each



1 court on a pro rata basis in proportion to the total amount allocated
2 to each court in this fund.

3 (g) A county, or city and county, may bill trial courts within its
4 jurisdiction for costs for services provided by the county, or city
5 and county, as described in Sections 77003 and 77212, including
6 indirect costs as described in paragraph (7) of subdivision (a) of
7 Section 77003 and Section 77212. The costs billed by the county,
8 or the city and the county, pursuant to this subdivision shall not
9 exceed the costs incurred by the county, or the city and the county,
10 of providing similar services to county departments or special
11 districts.

12 (h) Pursuant to Section 77206, the Controller, at the request of
13 the Legislature, may perform financial and fiscal compliance
14 audits of this fund. The Judicial Council or its representatives may
15 perform audits and reviews of this fund wherever the records may
16 be located.

17 (i) The Judicial Council, in consultation with the Controller's
18 office, shall establish procedures to implement the provisions of
19 this section and to provide for payment of trial court operations
20 expenses, as described in Sections 77003 and 77006.5, incurred on
21 July 1, 1997, and thereafter.

22 (j) Notwithstanding any other provision of law, including, but
23 not limited to, this section, the Judicial Council may establish trial
24 court operations funds separate from the county treasury. The
25 operations funds may supersede those provided for under this
26 section and may require the courts to include any or all money
27 under the control of the court in the funds.

28 *SEC. 21.5. Section 77009 of the Government Code is*
29 *amended to read:*

30 77009. (a) For the purposes of funding trial court operations,
31 each board of supervisors shall establish in the county treasury a
32 Trial Court Operations Fund, which will operate as an agency
33 fund. All funds appropriated in the Budget Act and allocated and
34 reallocated to each court in the county by the Judicial Council shall
35 be deposited into the fund. Accounts shall be established in the
36 Trial Court Operations Fund for each trial court in the county,
37 except that one account may be established for courts which have
38 a unified budget. In a county where court budgets include
39 appropriations for expenditures administered on a countywide
40 basis, including, but not limited to, court security, centralized



1 ~~data-processing~~ *data processing* and planning and research
2 services, an account for each centralized service shall be
3 established and funded from those appropriations.

4 (b) The moneys of the Trial Court Operations Fund arising
5 from deposits of funds appropriated in the Budget Act and
6 allocated or reallocated to each court in the county by the Judicial
7 Council shall be payable only for the purposes set forth in Sections
8 77003 and 77006.5, and for services purchased by the court
9 pursuant to subdivisions (b) and (c) of Section 77212. The
10 presiding judge of each court in a county, or his or her designee,
11 shall authorize and direct expenditures from the fund and the
12 county auditor-controller shall make payments from the funds as
13 directed. Approval of the board of supervisors is not required for
14 expenditure from this fund.

15 (c) All funds received by a trial court from any source shall be
16 deposited in the trial court operations fund, except as provided in
17 this section. Funds that are received to fulfill the requirements of
18 Article 4 (commencing with Section 4250) of Chapter 2 of Part 2
19 of Division 9 and Division 14 (commencing with Section 10000)
20 of the Family Code shall be identified and maintained in a separate
21 account established in the fund for this purpose. All other funds
22 that are received for purposes other than court operations, as
23 defined in Section 77003 and Rule 810 of the California Rules of
24 Court, shall be identified and maintained in one or more separate
25 accounts established in the fund pursuant to procedures adopted by
26 the Judicial Council. This subdivision shall only apply to funds
27 received by the courts for operating and program purposes. This
28 subdivision shall not apply to either of the following:

29 (1) Funds received by the courts pursuant to Section 68084, if
30 those funds are not for operating or program use.

31 (2) Payments from a party or a defendant received by a trial
32 court or the county for any fees, fines, or forfeitures.

33 (d) Interest received by a county ~~which~~ *that* is attributable to
34 investment of money required by this section to be deposited in its
35 Trial Court Operations Fund shall be deposited in the fund and
36 shall be used for trial court operations purposes.

37 (e) In no event shall interest be charged to the Trial Court
38 Operations Fund, except as provided in Section 77009.1.

39 (f) Reasonable administrative expenses incurred by the county
40 associated with the operation of this fund shall be charged to each



1 court on a pro rata basis in proportion to the total amount allocated
2 to each court in this fund.

3 (g) A county, or city and county, may bill trial courts within its
4 jurisdiction for costs for services provided by the county, or city
5 and county, as described in Sections 77003 and 77212, including
6 indirect costs as described in paragraph (7) of subdivision (a) of
7 Section 77003 and Section 77212. The costs billed by the county,
8 or the city and the county, pursuant to this subdivision shall not
9 exceed the costs incurred by the county, or the city and the county,
10 of providing similar services to county departments or special
11 districts.

12 (h) Pursuant to Section 77206, the Controller, at the request of
13 the Legislature ~~or the Judicial Council~~, may perform financial and
14 fiscal compliance audits of this fund. *The Judicial Council or its*
15 *representatives may perform audits and reviews of this fund*
16 *wherever the records may be located.*

17 (i) The Judicial Council ~~with the concurrence of the~~
18 ~~Department of Finance and~~, *in consultation with* the Controller’s
19 office, shall establish procedures to implement ~~the provisions of~~
20 this section and to provide for payment of trial court operations
21 expenses, as described in Sections 77003 and 77006.5, incurred on
22 July 1, 1997, and thereafter.

23 (j) ~~The Judicial Council shall study alternative methods for the~~
24 ~~establishment and management of the Trial Court Operations Fund~~
25 ~~as provided in this section, and shall report its findings and~~
26 ~~recommendations to the Legislature not later than November 1,~~
27 ~~1998.~~ *Notwithstanding any other provision of law, including, but*
28 *not limited to, this section, the Judicial Council may establish trial*
29 *court operations funds separate from the county treasury. The*
30 *operations funds may supersede those provided for under this*
31 *section and may require the courts to include any or all money*
32 *under the control of the court in the funds.*

33 SEC. 22. Section 77202 of the Government Code is amended
34 to read:

35 77202. (a) The Legislature shall make an annual
36 appropriation to the Judicial Council for the general operations of
37 the trial courts based on the request of the Judicial Council. The
38 Judicial Council’s trial court budget request shall meet the needs
39 of all trial courts in a manner which promotes equal access to the
40 courts statewide. The Judicial Council shall allocate the



1 appropriation to the trial courts in a manner that best ensures the
2 ability of the courts to carry out their functions, promotes
3 implementation of statewide policies, and promotes the immediate
4 implementation of efficiencies and cost saving measures in court
5 operations, in order to guarantee access to justice to citizens of the
6 state.

7 The Judicial Council shall ensure that its trial court budget
8 request and the allocations made by it reward each trial court's
9 implementation of efficiencies and cost saving measures.

10 These efficiencies and cost saving measures shall include, but
11 not be limited to, the following:

12 (1) The sharing or merger of court support staff among trial
13 courts across counties.

14 (2) The assignment of any type of case to a judge for all
15 purposes commencing with the filing of the case and regardless of
16 jurisdictional boundaries.

17 (3) The establishment of a separate calendar or division to hear
18 a particular type of case.

19 (4) In rural counties, the use of all court facilities for hearings
20 and trials of all types of cases and the acceptance of filing
21 documents in any case.

22 (5) The use of alternative dispute resolution programs, such as
23 arbitration.

24 (6) The development and use of automated accounting and
25 case-processing systems.

26 (b) The Judicial Council shall adopt policies and procedures
27 governing practices and procedures for budgeting in the trial
28 courts in a manner that best ensures the ability of the courts to carry
29 out their functions and may delegate the adoption to the
30 Administrative Director of the Courts. The Administrative
31 Director of the Courts shall establish budget procedures and an
32 annual schedule of budget development and management
33 consistent with these rules.

34 SEC. 23. Section 77206 of the Government Code is amended
35 to read:

36 77206. (a) Notwithstanding any other provision of law, the
37 Judicial Council may regulate the budget and fiscal management
38 of the trial courts. The Judicial Council, in consultation with the
39 Controller, shall maintain appropriate regulations for
40 recordkeeping and accounting by the courts. The Judicial Council



1 shall seek to ensure, by these provisions, that (1) the fiscal affairs
2 of the trial courts are managed efficiently, effectively, and
3 responsibly, and (2) all moneys collected by the courts, including
4 filing fees, fines, forfeitures, and penalties, and all revenues and
5 expenditures relating to court operations are known. The Judicial
6 Council may delegate their authority under this section, when
7 appropriate, to the Administrative Director of the Courts.

8 (b) Regulations, rules, and reporting requirements adopted
9 pursuant to this chapter shall be exempt from review and approval
10 or other processing by the Office of Administrative Law as
11 provided for in Chapter 3.5 (commencing with Section 11340) of
12 Part 1 of Division 3 of Title 2.

13 (c) The Controller, at the request of the Legislature, may
14 perform and publish financial and fiscal compliance audits of the
15 reports of court revenues and expenditures. The Controller shall
16 report the results of these audits to the Legislature and the Judicial
17 Council. The Judicial Council or its representative may perform
18 audits and reviews of all court financial records wherever they may
19 be located.

20 (d) The Judicial Council shall provide for the transmission of
21 summary information concerning court revenues and
22 expenditures to the Controller.

23 (e) The Judicial Council shall adopt rules to provide for
24 reasonable public access to budget allocation and expenditure
25 information at the state and local level.

26 (f) The Judicial Council shall adopt rules ensuring that, upon
27 written request, the trial courts provide, in a timely manner,
28 information relating to the administration of the courts, including
29 financial information and other information that affects the wages,
30 hours, and working conditions of trial court employees.

31 SEC. 24. Section 77212 of the Government Code is amended
32 to read:

33 77212. (a) The State of California, the counties of California,
34 and the trial courts of California, recognize that a unique and
35 interdependent relationship has evolved between the courts and
36 the counties over a sustained period of time. While it is the intent
37 of this act to transfer all fiscal responsibility for the support of the
38 trial courts from the counties to the State of California, it is
39 imperative that the activities of the state, the counties, and the trial
40 courts be maintained in a manner that ensures that services to the



1 people of California not be disrupted. Therefore, to this end,
2 during the 1997–98 fiscal year, commencing on July 1, 1997,
3 counties shall continue to provide and courts shall continue to use,
4 county services provided to the trial courts on July 1, 1997,
5 including, but not limited to: auditor/controller services,
6 coordination of telephone services, data-processing and
7 information technology services, procurement, human resources
8 services, affirmative action services, treasurer/tax collector
9 services, county counsel services, facilities management, and legal
10 representation. These services shall be provided to the court at a
11 rate that shall not exceed the costs of providing similar services to
12 county departments or special districts. If the cost was not included
13 in the county base pursuant to paragraph (1) of subdivision (b) of
14 Section 77201 or was not otherwise charged to the court prior to
15 July 1, 1997, and were court operation costs as defined in Section
16 77003 in fiscal year 1994–95, the court may seek adjustment of the
17 amount the county is required to submit to the state pursuant
18 Section 77201.

19 (b) In fiscal year 1998–99 commencing on July 1, 1998, and
20 thereafter the county may give notice to the court that the county
21 will no longer provide a specific service except that the county
22 shall cooperate with the court to ensure that a vital service for the
23 court shall be available from the county or other entities that
24 provide the service. The notice must be given at least 90 days prior
25 to the end of the fiscal year and shall be effective only upon the first
26 day of the succeeding fiscal year.

27 (c) In fiscal year 1998–99, commencing on July 1, 1998, and
28 thereafter, the court may give notice to the county that the court
29 will no longer use a specific county service. The notice shall be
30 given at least 90 days prior to the end of the fiscal year and shall
31 be effective only upon the first day of the succeeding fiscal year.
32 However, for three years from the effective date of this section, a
33 court shall not terminate a service that involved the acquisition of
34 equipment, including, but not limited to, computer and data
35 processing systems, financed by a long-term financing plan
36 whereby the county is dependent upon the court's continued
37 financial support for a portion of the cost of the acquisition.

38 (d) (1) If a trial court desires to receive or continue to receive
39 a specific service from a county or city and county as provided in
40 subdivision (c), and the county or city and county desires to



1 provide or continue to provide that service as provided in
2 subdivision (b), the presiding judge of that court and the county or
3 city and county shall enter into a contract for that service. The
4 contract shall identify the scope of service, method of service
5 delivery, term of agreement, anticipated service outcomes, and the
6 cost of the service. The court and the county or city and county
7 shall cooperate in developing and implementing the contract.

8 For any contract entered into after January 1, 2002, the amount
9 of any indirect or overhead costs shall be individually stated in any
10 contract together with the method of calculation of the indirect or
11 overhead costs. This amount shall not contain items that are not
12 otherwise allowable court operations. The Judicial Council may
13 audit the county figures to ensure compliance with this section and
14 to determine the reasonableness of the figures.

15 (2) This subdivision applies to services to be provided in fiscal
16 year 1999–2000 and thereafter.

17 SEC. 25. Section 1463.1 of the Penal Code is amended to
18 read:

19 1463.1. Notwithstanding any other provisions of law except
20 Section 77009 of the Government Code, any trial court may elect,
21 with prior approval of the Administrative Director of the Courts,
22 to deposit in a bank account pursuant to Section 53679 of the
23 Government Code, all moneys deposited as bail with the court, or
24 with the clerk thereof.

25 All moneys received and disbursed through the bank account
26 shall be properly and uniformly accounted for under any
27 procedures the Controller may deem necessary. The Judicial
28 Council may regulate the bank accounts, provided that its
29 regulations are not inconsistent with those of the Controller.

30 ~~SEC. 26. Section 4750 of the Penal Code is amended to read:~~

31 ~~4750.—A city or county and the superior court in the county~~
32 ~~shall be entitled to reimbursement for reasonable and necessary~~
33 ~~costs connected with state prisons or prisoners in connection with~~
34 ~~any of the following:~~

35 ~~(a) Any crime committed at a state prison, whether by a~~
36 ~~prisoner, employee, or other person.~~

37 ~~With respect to a prisoner, “crime committed at a state prison”~~
38 ~~as used in this subdivision, includes, but is not limited to, crimes~~
39 ~~committed by the prisoner while detained in local facilities as a~~
40 ~~result of a transfer pursuant to Section 2910 or 6253, or in~~



1 ~~conjunction with any hearing, proceeding, or other activity for~~
2 ~~which reimbursement is otherwise provided by this section.~~

3 ~~(b) Any crime committed by a prisoner in furtherance of an~~
4 ~~escape. Any crime committed by an escaped prisoner within 10~~
5 ~~days after the escape and within 100 miles of the facility from~~
6 ~~which the escape occurred shall be presumed to have been a crime~~
7 ~~committed in furtherance of an escape.~~

8 ~~(c) Any hearing on any return of a writ of habeas corpus~~
9 ~~prosecuted by or on behalf of a prisoner.~~

10 ~~(d) Any trial or hearing on the question of the sanity of a~~
11 ~~prisoner.~~

12 ~~(e) Any costs not otherwise reimbursable under Section 1557~~
13 ~~or any other related provision in connection with any extradition~~
14 ~~proceeding for any prisoner released to hold.~~

15 ~~(f) Any costs incurred by a coroner in connection with the death~~
16 ~~of a prisoner.~~

17 ~~(g) Any costs incurred in transporting a prisoner within the host~~
18 ~~county or as requested by the prison facility or incurred for~~
19 ~~increased security while a prisoner is outside a state prison.~~

20 ~~SEC. 27.—Section 4751 of the Penal Code is amended to read:~~

21 ~~4751.—Costs incurred include all of the following:~~

22 ~~(a) Costs of law enforcement agencies in connection with any~~
23 ~~matter set forth in Section 4750, including the investigation or~~
24 ~~evaluation of any of those matters regardless of whether a crime~~
25 ~~has in fact occurred, a hearing held, or an offense prosecuted.~~

26 ~~(b) Costs of any trial or hearing of any matter set forth in~~
27 ~~Section 4750, including costs for the preparation of the trial,~~
28 ~~pretrial hearing, actual trial or hearing, expert witness fees, the~~
29 ~~costs of guarding or keeping the prisoner, the transportation of the~~
30 ~~prisoner, the costs of appeal, and the execution of the sentence. The~~
31 ~~cost of detention in a city or county correctional facility shall~~
32 ~~include the same cost factors as are utilized by the Department of~~
33 ~~Corrections in determining the cost of prisoner care in state~~
34 ~~correctional facilities.~~

35 ~~(c) The costs of the prosecuting attorney in investigating,~~
36 ~~evaluating, or prosecuting cases related to any matter set forth in~~
37 ~~Section 4750, whether or not the prosecuting attorney decides to~~
38 ~~commence legal action.~~

39 ~~(d) Costs incurred by the public defender or court appointed~~
40 ~~attorney with respect to any matter set forth in Section 4750.~~



1 ~~(c) Any other costs reasonably incurred by a county or superior~~
2 ~~court in connection with any matter set forth in Section 4750.~~

3 ~~SEC. 28. Section 4753 of the Penal Code is amended to read:~~

4 ~~4753. A city or county shall designate an officer or agency to~~
5 ~~prepare a statement of costs of the city or county that shall be~~
6 ~~reimbursed under this chapter. A superior court shall designate an~~
7 ~~officer or employee to prepare a statement of costs of the court that~~
8 ~~shall be reimbursed under this chapter.~~

9 ~~The statements of the city or county and of the superior court~~
10 ~~shall be sent together to the Controller for approval. The Controller~~
11 ~~shall reimburse the city or county and the superior court within 60~~
12 ~~days after receipt of the statement or provide a written statement~~
13 ~~as to the reason for not making reimbursement at that time. The~~
14 ~~reimbursement to the superior court shall be made directly to the~~
15 ~~court. If sufficient funds are not available, the Controller shall~~
16 ~~request the Director of Finance to include any amounts necessary~~
17 ~~to satisfy the claims in a request for a deficiency appropriation.~~

18 ~~Section 9.7 of this bill incorporates amendments to Section 2025~~
19 ~~of the Code of Civil Procedure proposed by both this bill and SB~~
20 ~~805. It shall only become operative if (1) both bills are enacted and~~
21 ~~become effective on or before January 1, 2002, (2) each bill~~
22 ~~amends Section 2025 of the Code of Civil Procedure, and (3) this~~
23 ~~bill is enacted after SB 805, in which case Section 9.6 of this bill~~
24 ~~shall not become operative.~~

25 ~~SEC. 27. Section 20.5 of this bill incorporates amendments to~~
26 ~~Section 77003 of the Government Code proposed by both this bill~~
27 ~~and AB 1700. It shall only become operative if (1) both bills are~~
28 ~~enacted and become effective on or before January 1, 2002, (2)~~
29 ~~each bill amends Section 77003 of the Government Code, and (3)~~
30 ~~this bill is enacted after AB 1700, in which case Section 20 of this~~
31 ~~bill shall not become operative.~~

32 ~~SEC. 28. Section 21.5 of this bill incorporates amendments to~~
33 ~~Section 77009 of the Government Code proposed by this bill and~~
34 ~~SB 1191. It shall only become operative if (1) both bills are enacted~~
35 ~~and become effective on or before January 1, 2002, (2) each bill~~
36 ~~amends Section 77009 of the Government Code, and (3) this bill~~
37 ~~is enacted after SB 1191, in which case Section 77009 of the~~
38 ~~Government Code, as amended by SB 1191, shall remain operative~~
39 ~~only until the operative date of this bill, at which time Section 21.5~~



1 *of this bill shall become operative, and Section 21 of this bill shall*
2 *not become operative.*

O

